

# AMERICAN NEUTRALITY POLICY

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## HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

SEVENTY-SIXTH CONGRESS

FIRST SESSION

ON

**Present Neutrality Law (Public Res. No. 27)  
(75th Congress)**

PROPOSED AMENDMENTS THERETO, AND RELATED  
LEGISLATION AFFECTING THE FOREIGN  
POLICY OF THE UNITED STATES

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APRIL 11, 12, 13, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, AND MAY 2, 1939



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# CONTENTS

Statements of—	Page
Bingham, Mr. Alfred, editor, Common Sense, New York City.....	283
Brant, Irving, 630 F Street NW., Washington, D. C.....	587
Brunauer, Dr. Esther Caukin, associate in international education, American Association of University Women, 1634 I Street NW., Washington, D. C.....	378, 553
Castle, Hon. William R., former Assistant Secretary of State, Wash- ington, D. C.....	109
Chase, Dr. William, Brooklyn, N. Y.....	525
Close, Mr. Upton, Valhalla, N. Y.....	233
Coffee, Hon. John M., Representative in Congress from the State of Washington.....	221
Crawford, Hon. Fred L., Representative in Congress from the State of Michigan.....	47
Dennis, Mr. Laurence, representative of E. A. Pearce Co., 40 Wall Street, New York City.....	371
Douglas, Mr. Henry H., chairman, Washington Society for Aid to China, Washington, D. C.....	361
Eichelberger, Mr. Clark, chairman, American Union for Concerted Peace Efforts, 8 West Fortieth Street, New York City.....	570
Emerson, Mr. Ralph, legislative representative, Joint Maritime Legis- lative Committee, 1627 K Street NW., Washington, D. C.....	486, 491
Faddis, Hon. Charles I., Representative in Congress from the State of Pennsylvania.....	6
Fenwick, Dr. Charles G., professor of international and constitutional law, Bryn Mawr College, Bryn Mawr, Pa.....	79, 175
Fish, Hon. Hamilton, Representative in Congress from the State of New York.....	14
Fitch, Mrs. George A., Committee on Non-Participation in Japanese Aggression, Washington, D. C.....	401
Fleming, Prof. D. F., Vanderbilt University, Nashville, Tenn.....	535
Geyer, Hon. Lee E., Representative in Congress from the State of California.....	533
Guyer, Hon. U. S., Representative in Congress from the State of Kansas.....	1
Haan, Mr. Filsoo K., Sino-Korean People's League, 101 D Street NE., Washington, D. C.....	513
Healy, Dr. Thomas, dean of the school of foreign service, Georgetown University, Washington, D. C.....	69
Howe, Mr. Quincy, 1133 Park Avenue, New York City.....	393
Hyde, Dr. Charles C., Columbia University, New York City.....	506
Judd, Dr. Walter H., 9 Vincent Place, Montclair, N. J.....	332
Keefe, Hon. Frank B., Representative in Congress from the State of Wisconsin.....	99
Lage, Mr. William Potter, 120 Broadway, New York City.....	195
Libby, Mr. Frederick J., executive secretary, National Council for Prevention of War, 532 Seventeenth Street NW., Washington, D. C.....	470
Luckey, Hon. Henry H., former Representative in Congress from the State of Nebraska.....	303
Ludlow, Hon. Louis, Representative in Congress from the State of Indiana.....	417
Maas, Hon. Melvin J., Representative in Congress from the State of Minnesota.....	19
Marsh, Mr. Benjamin, executive secretary, The People's Lobby, Washington, D. C.....	294
Matthews, Mr. Wm. R., editor, Arizona Daily Star, Tucson, Ariz.....	354

## Statements of--Continued.

Page

Monsman, Dr. Diana, representing the Maryland State Division of the Keep America out of War Congress, 721 Newington Avenue, Baltimore, Md.	582
Morley, Mr. Felix, editor, Washington Post, Washington, D. C.	314
Rankin, Miss Jeannette, Washington, D. C.	220
Schain, Miss Josephine, chairman, National Committee on Cause and Cure of War, 70 East Forty-fifth Street, New York City	438
Sisson, Hon. Fred J., former Representative in Congress from the State of New York, 1635 R Street N.W., Washington, D. C.	447
Stewart, Mr. Maxwell, room 6333, 30 Rockefeller Plaza, New York City	263
Streeter, Mrs. Thomas W., Morristown, N. J.	122
Thomas, Hon. Norman, New York City	133
Tilson, Hon. John Q., former Representative in Congress from the State of Connecticut, Shoreham Building, Washington, D. C.	120
Tobin, Prof. Harold J., assistant professor of political science, Dartmouth College, Hanover, N. H.	421
Van Antwerp, Mr. Eugene, commander in chief of the Veterans of Foreign Wars, Detroit, Mich.	158
Van Zandt, Hon. James E., Representative in Congress from the State of Pennsylvania	61
Voorhis, Hon. Jerry, Representative in Congress from the State of California	41
Wadsworth, Hon. James W., Representative in Congress from the State of New York	28
Ward, Dr. Harry, The American League for Peace and Democracy, room 701, 268 Fourth Avenue, New York City	567
Act of August 31, 1935--Public Res. No. 67, Seventy-fourth Congress	609
Act of February 29, 1936--Public Res. No. 74, Seventy-fourth Congress	612
Act of January 8, 1937--Public Res. No. 1, Seventy-fifth Congress (Spanish embargo lifted by Presidential proclamation, April 1, 1939)	612
Act of May 1, 1937--Public Res. No. 27, Seventy-fifth Congress	613
H. Res. 100--Prohibit the transfer, loan, or sale of arms or munitions. By Mrs. Rogers of Massachusetts	618
H. J. Res. 3--To prohibit the shipment of arms, munitions, and implements of war from any place in the United States. By Mr. Ludlow	619
H. J. Res. 7--To implement the Kellogg-Briand Pact for World Peace. By Mr. Guyer of Kansas	619
H. J. Res. 16--To prohibit the export of arms, ammunition, or implements of war, and so forth. By Mr. Knutson	620
H. J. Res. 42--Embargo on scrap iron and pig iron under Public Law No. 27, Seventy-fifth Congress. By Mr. Crawford	621
H. J. Res. 44--To repeal the Neutrality Act. By Mr. Faddis	621
H. J. Res. 113--To prohibit the shipment of arms, ammunition, and implements of war from any place in the United States. By Mr. Fish	621
H. J. Res. 226--To amend the Neutrality Act. By Mr. Geyer of California	622
H. J. Res. 254--To keep the United States out of foreign wars, and to provide for the neutrality of the United States. By Mr. Fish	623
H. R. 79--Repealing the so-called Neutrality Act of 1937. By Mr. Maas	625
H. R. 103--To establish the neutrality of the United States. By Mr. Ludlow	626
H. R. 3419--To prohibit exportation of pig iron, scrap iron, and scrap steel to China and Japan, by Mr. Fish	626
H. R. 4232--To limit the traffic in war munitions, to promote peace, and for other purposes. By Mr. Voorhis of California	627
H. R. 5223--Peace Act of 1939. By Mr. Hennings	627
H. R. 5432--To prohibit the export of arms, ammunition, and implements and materials of war to Japan, and for other purposes. By Mr. Coffee of Washington	631
H. R. 5575--Peace Act of 1939. By Mr. Hennings	632
Exports of selected commodities, 1936-38	637

# AMERICAN NEUTRALITY POLICY

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TUESDAY, APRIL 11, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. Gentlemen, the committee will be in order, please.

You will find at each place the committee print of all of the bills that were introduced, the bills and resolutions, with space in the first resolution, that is, the present neutrality law, so that each member can make his notes with reference to the amendments suggested. All of the resolutions are in the large pamphlet, and in the back part of it is the present—that is, all of the neutrality acts that have been passed—and the small print contains the present and the previous neutrality acts. So I guess, this morning, we will work from the large pamphlet, so as to listen to Members of Congress who are going to appear before the committee to speak on their resolutions.

The first witness will be Mr. Guyer, Representative Guyer.

(The committee thereupon proceeded to the consideration of House Joint Resolution 7; see p. 619.)

## STATEMENT OF HON. U. S. GUYER, REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. GUYER. Mr. Chairman, I regret that I will have to leave very quickly and you will not suffer long, because I have a very important judiciary committee meeting this morning.

Mr. BLOOM. The Chair will let you know later whether he will be sorry, or not.

Mr. GUYER. I introduced House Joint Resolution No. 7 in the Seventy-sixth Congress and a like resolution in the Seventy-fifth Congress; and, in short, it authorizes or requests the President to call together here in Washington the signatories of the so-called Kellogg-Briand Pact, or the Briand-Kellogg Pact. You are probably familiar with this pact, which was, in fact, originated by a lawyer in Chicago by the name of Levinson. The Committee on Foreign Affairs about that time, took it up, and it merely made treaties between the nations, in which they pledged their honor to settle all of their difficulties, of whatsoever source of origin, by peaceful means, and it was first agreed to by about 16 nations; then in 1928 a great many more, headed by Germany, France, Japan, and nearly all of the nations of the world, finally signed it, totaling 63 nations.

It was a treaty to renounce war as a means of settling difficulties which arise internationally; and my object in introducing this legislation is to bring together the signatories of these treaty powers here in Washington, and it was intended, or directed, rather, to this year 1939, to let these nations again pledge themselves to create world public opinion against war as a means of sentiment.

Now, we know, and everybody knows, it seems to me, that if we get into a world war, civilization, as we all know it, will be no more for a long time; we will have another "dark ages" following it. The world just cannot stand a general world war again and have left matters as they are, or anything like what they are today.

The idea is to create world public opinion against war as a means of settlement of international difficulties. We know these difficulties can be settled by negotiation, as sensible people do settle them. They are not always settled that way, but they could and should be. Public opinion is the strongest human agency there is, stronger than your Constitution, stronger than your Army and your Navy. If you get public opinion strong enough, and it seems like, with the whole world in a mood for peace, it would make a general war next to impossible. I believe that the people of Germany and the people of Italy are just as adverse to war as we are. I believe the public opinion of those countries, although it cannot be vocal, is opposed to war; and in other countries that are not directly under these totalitarian or dictatorship set-ups, it is even stronger against war.

Now, when we got into the last war, do you know what it cost us? When the last widow gets her last check of the last veteran of this last World War, it is going to cost the United States \$100,000,000,000, and that is just about what all of the property in the world was estimated to be worth at the time of the signing of the Constitution of the United States. It is estimated that another war will cost three times what that last war did, and you know what the last war cost the world; something like \$350,000,000,000.

Mr. BLOOM. Would you mind being interrupted as you go along?

Mr. GUYER. Yes; go ahead. Any question that you ask, I will answer, if I can.

Mr. BLOOM. I will read to you article I and article II of the Briand Pact. I believe it is in the third article that you would refer to. Article I reads:

The high contracting parties solemnly declare, in the names of their respective peoples, that they condemn recourses to war for the solution of international controversies and renounce it as an instrument of national policy in their relations one with another.

Article II: The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature, or of whatever origin they may be, which may arise among them, shall never be sought, except by peaceful means.

Mr. GUYER. Those are only two articles.

Mr. BLOOM. How are you going to accomplish anything, if you do enforce this—or if you cannot enforce this? I mean there is no way of enforcing it, is there?

Mr. GUYER. No; there is no penalty or sanction.

Mr. BLOOM. That is just a promise?

Mr. GUYER. That is solemn promise between nations.

Mr. BLOOM. They have already promised that, have they not?

Mr. GUYER. Yes.

Mr. BLOOM. You want to have them promise it again?

Mr. GUYER. Yes; some of them violated it, of course. In this conference, they could consider all of these matters.

Mr. BLOOM. But there are many other things in the Kellogg-Briand Pact.

Mr. GUYER. Yes; that arose out of the violation or supposed violation of this treaty. For instance, if we generally supposed that Italy and Japan have violated the treaty. Of course, there is one exception to this, that a nation may fight in self defense, they claim they are fighting in self defense.

Mr. BLOOM. With reference to the prevention of war, they merely promise not to go to war?

Mr. GUYER. Yes; that they will settle their difficulties by diplomatic peaceful means.

Mr. BLOOM. Now, that is another promise, is it not?

Mr. GUYER. Yes.

Mr. BLOOM. I just wanted to get the idea of article I and article II of the Kellogg-Briand Pact in the record.

Mr. GUYER. In the resolution, there are some other things that should be considered, such as enacting a code of international laws, which shall recognize the sovereignty of each nation, with the exception only that it has renounced war and promised to settle all international disputes by peaceful means, and shall recognize the right of every nation to be protected by international law from interference with its own affairs; and, second, to provide for uniform standards of values and cooperative measures for the maintenance of reasonably stable exchange rates.

Of course, these are just suggestions for the agenda. Any questions?

Mr. KEE. In the event you secure this conference will you eliminate from the new pact that you propose the provision in the original pact that the renunciation of war would not deprive nations of their legitimate right of self-defense?

Mr. GUYER. No; I would not think of eliminating that.

Mr. KEE. You recommend in your preamble to the resolution here, that it be condemned. In the Briand-Kellogg Pact that has been considered to be a reservation?

Mr. GUYER. Yes, sir.

Mr. KEE. And you indicate that you would want to modify that?

Mr. GUYER. That might be modified; yes.

Mr. KEE. But not eliminated?

Mr. GUYER. That would be up to the conference.

Mr. JOHNSON of Texas. I notice in this last portion of the bill, in which you suggest the conference to consider certain things, and, among them, the enactment of a code of international laws. What provision do you have in mind with reference to enforcing abiding by the laws, which the parties agree to do? Have you any thought or suggestion on that phase of it?

Mr. GUYER. Well, in an agreement of this kind, in which peaceful means are to be employed only, of course, there could be no military penalty.

Mr. JOHNSON of Texas. Is that not our chief trouble now, Mr. Guyer, that the countries are willing to take the pledge and they will promise you that they will always abide by them, but the difficulty

is in making them carry out their agreements. If we could have the solution to the problem of making the countries live up to their agreements, would not the problem of peace be settled? Is that not the fundamental trouble we are dealing with?

Mr. GUYER. Well, of course, that would probably lead to war, itself.

Mr. JOHNSON of Texas. I was just wondering if you had thought of any panacea for that problem.

Mr. GUYER. You would have to depend on the public sentiment of the world to enforce it.

Mr. BLOOM. Mr. Guyer, a thought just came to me. A promise is one thing, but let us take the situation of Italy and Albania. Italy was the protector, or supposed to be the guardian angel of Albania; is that right?

Mr. GUYER. Yes; that is true.

Mr. BLOOM. There cannot, to my mind, be anything stronger than that.

Mr. EATON. Their guardian angel, did you say?

Mr. BLOOM. I will explain to the gentleman from New Jersey what I mean by that afterward. How would you make effective these promises? How would you bring about results in a case of that kind?

Mr. GUYER. There is the suggestion here that there be some kind of arbitration board organized to settle these matters; and, of course, if all of the nations would agree to abide by their settlement by decree of that board, that would settle it.

Mr. BLOOM. Any other questions, gentlemen?

Mr. ALLEN. How can you avoid or relieve public sentiment, when so many of the people of the world are influenced by subsidized press?

Mr. GUYER. That is one of the great difficulties, the matter of getting hold of public opinion. Of course, if you were in Italy and Germany, where there is no liberty of press, no free speech, you could not have any effect upon the public opinion in those countries, or in Russia. But you have a great meeting here in Washington, with representatives of all of the signatories of these powers, you cannot keep it from sifting over into Germany and Italy, that there is a great effort being made here to avoid wars.

Mr. JOHNSON of Texas. Will not that sifting prove to be effective?

Mr. GUYER. I do not know.

Mr. BLOOM. Do you remember, Mr. Guyer, what Will Rogers said about this country?

Mr. GUYER. I do not know, but I presume it was very good. I do not remember it. What did he say?

Mr. BLOOM. I will tell you later.

Mr. RICHARDS. Mr. Guyer, assuming that this resolution is passed and we invite these people over here, do you have any confidence that, if they set up a committee or court, as you suggest, would you have any confidence that any number of those nations would have any intention of carrying out the purposes of the conference to start with?

Mr. GUYER. I think a great majority of the nations would.

Mr. RICHARDS. Would you think all of the great nations would?

Mr. GUYER. No; I do not believe they all would.

Mr. RICHARDS. If a part of the contracting parties had no intention to carry it out, what is the use of sitting down with them?

Mr. GUYER. Well, the idea would be to talk these things over in conference, and create public opinion. Now, in the present stress and tension, they never can settle these things, outside of war.

Mr. JOHNSON of Texas. Our opinion is already crystalized for peace in America. Let the other countries get some peaceful sentiments.

Mr. GUYER. I tell you, Mr. Johnson, you get the war spirit stirred up—and if you do not think there is any war spirit in this country, you will recall that, on the 6th of this month, there were 100,000 people who stood down there in the rain to see the Army Day parade.

Mr. JOHNSON of Texas. The American people love parades, but they do not love wars.

Mr. GUYER. Let some demagogue start talking about democracy, and saving democracy, and a big surge of patriotism will sweep the country, then the country will be ready to let loose the "dogs of war."

Mr. EATON. I do not think you need worry about the United States. Even with that purpose in mind, how will you get that great big crowd of people here?

Mr. GUYER. They will have representatives here, of course.

Mr. EATON. Will they not be people that you cannot believe a word they say? I cannot have any great respect for their word.

Mr. SHANLEY. Mr. Chairman, may I say, for your information, that it will implement the Versailles Treaty, and it has been said that the League of Nations had been responsible for the ills of the world. I notice you hope to check this unilateral agreement and continue the burden, as well as crystallize the effort that has been made in the past?

Mr. GUYER. Certainly.

Mr. SHANLEY. In other words, we are going to have another conference as we did in Versailles, and in addition to that, you are going to implement the Kellogg-Briand Pact?

Mr. GUYER. That was the latest conference at Versailles. It is much like the rearmament conference we had here in Washington, and I forget when it was.

Mr. SHANLEY. 1922. Of course, and now, your sentiments are expressed in a noble cause. One nation promises everything and then with the depression and rise of dictators, they just throw that everything aside. Now, of course, you say it will crystallize public opinion, but here we also see that you wish to depart from our historical policy, giving up the freedom of the seas and joining in a world group, because I think most scholars admit that the Kellogg-Briand Pact was an indirect way of carrying out the League of Nations, and I take it that your resolution has the same thought in mind?

Mr. GUYER. Well, something of the kind. Think what we may, whether we are opposed to or for the League of Nations, if something of that kind is not formulated, we are going to have our civilization wiped out.

Mr. SHANLEY. You think our present Neutrality Act has been ineffective?

Mr. GUYER. Yes.

Mrs. ROGERS. Mr. Chairman, do you not feel it is unfortunate to have a law on our statutes and not enforce it?

Mr. GUYER. What is that?

Mrs. ROGERS. Do you not think it is unfortunate to have a bill on our statute books and not enforce it, such as our so-called Neutrality Act?

Mr. GUYER. Yes; I should think so.

Mr. BLOOM. Mr. Guyer has requested to be permitted to leave, because he has a very important meeting to attend.

Mr. GUYER. I would ask this, Mr. Chairman: I have consulted Canon Chase a great deal in this matter, and when you get through with the Congressmen sometime in the hearing, I would like for you to hear Canon Chase.

Mr. BLOOM. Yes; as soon as we can arrange a further program. We thank you very much, Mr. Guyer.

Now, members of the committee, I would like to announce now that, in reply to an invitation sent to Col. Charles A. Lindbergh the other day to appear before this committee, the chairman has received a radiogram from Colonel Lindbergh, from the *S. S. Aquitania*, stating that he will communicate directly upon his arrival. So I guess we can expect to have the honor of having Colonel Lindbergh appear before the committee, and arrangements will be made accordingly when the time has arrived.

(Thereupon the committee proceeded to the consideration of H. J. Res. 44; see p. 621.)

#### STATEMENT OF HON. CHARLES I. FADDIS, REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. BLOOM. Mr. Faddis, do you wish to make a statement first on the bill and then answer questions?

Mr. FADDIS. Yes; Mr. Chairman, I appreciate the courtesy of being allowed to appear before this committee. This resolution that I have introduced, as anyone can see, provides for the outright repeal of the neutrality act.

Mr. Chairman, I am not one of those who believe we can put human nature in a strait jacket. When we have tried to regulate human nature in this fashion by putting it in a strait jacket, it has proven to be a very disastrous failure and a very costly, if noble, experiment. I do not believe you can put human nature throughout the world in a strait jacket, any more than you can within a nation. Mr. Chairman, since self-preservation is the first law of nature, the security of this Nation is the highest duty of Congress, because unless the Nation is secure, nothing else that we can do will matter.

I am introducing this resolution, providing for the repeal of the Neutrality Act, because I believe that we can in that way best provide for the security of this Nation and remain at peace with the rest of the world.

Mr. BLOOM. In what way, Mr. Faddis?

Mr. FADDIS. The totalitarian nations of the world, which are promoting schools of political and economic thought antagonistic to ours, are building up empires designed to prevent us from trading with the rest of the world and to prevent the rest of the world from trading with us.

Mr. VOYTS. It is not assisting the Japanese very much, is it? It has never been wrong over there, has it?



Mr. FADDIS. I should think it assists Japan a great deal at the present time.

Mr. VORYS. In what way?

Mr. FADDIS. Japan is able to get everything she wants from us today. China is not able to get anything from us. The fact is that Japan is able to come here and get it. She is getting what she wants, yet it is keeping our people from trading with the Chinese.

Mr. VORYS. They have not tried the Neutrality Act, have they?

Mrs. ROGERS. It has never been enforced.

Mr. FADDIS. In that case, I agree with the lady from Massachusetts, perfectly, that a law that is on the statute books which is not being enforced, should either be enforced or repealed.

Mr. EATON. Do you believe it would help Japan?

Mr. FADDIS. Of course it would, and it is helping Japan in this case and she is the aggressor nation.

Mr. JOHNSON of Texas. Mr. Chairman, the neutrality law has not been invoked as to the Japanese-Chinese situation, so you cannot say whether it worked well, or not, because it has not been invoked; and that question was discussed at the last session of Congress, in which the matter was gone into on legal grounds, as to the authority of the President to invoke or not invoke it. But whether rightly or wrongly, the effect of it, some claim that it helped, and some that it did not. Of course, each country has the same rights, so long as the law is not in force. In other words, the situation in the Orient is just as though Mr. Faddis' bill was enacted into law: No neutrality. That is the situation we would be in, without any neutrality law.

Mr. FADDIS. I hardly believe it is in the same shape it would be, if we had no neutrality law.

Mr. JOHNSON of Texas. In other words, if you repeal the neutrality law, is not that just the situation that your bill would put us in with reference to all countries?

Mr. FADDIS. No; if we had no neutrality law, at all, there would be more attempts to carry on commerce with China, and China would be able to obtain more of the commodities that we might be able to ship to her.

Mr. JOHNSON of Texas. There is no provision of neutrality law that works against China or Japan.

Mr. FADDIS. Nevertheless, it has created a situation that has tended to restrict trade with China.

Mr. BLOOM. In what way?

Mr. FADDIS. The effect of its being on the books, although it has never been invoked, is that no one has known at any time since the Chinese-Japanese trouble started, at what time they might actually declare war and the neutrality act would be invoked, and that has tended to hinder anyone from making arrangements to supply the Chinese.

Mr. BLOOM. Who do you think would declare war? Would Japan declare war on China?

Mr. FADDIS. I do not believe so, not under the present circumstances; no.

Mr. BLOOM. Would China declare war on Japan?

Mr. FADDIS. She has not done so as yet.

Mr. BLOOM. Why does not either one or the other declare war on the other?

Mr. FADDIS. I cannot say. I am not in the counsels of those nations.

Mrs. ROGERS. They do not declare war since the Kellogg-Briand Pact.

Mr. BLOOM. Any further questions of Mr. Faddis?

Mr. VORYS. I would like to ask Mr. Faddis, if you do repeal the neutrality law, you would like to have restored the situation where the United States would divide its neutral rights in the future? That is, if we are going to allow our merchantmen and American manufacturers to ship goods into troubled waters, are we going to defend the right of those boats and those manufacturers to trade?

Mr. FADDIS. No; I do not know that I would advise going that far. However, this Nation was built up on the theory of the freedom of the seas. Back in the early days, we never saw fit to restrict commerce and deny them the freedom of the seas because a war was going on, except in case of the Embargo Act, which resulted very disastrously to the Nation. American shipping was allowed the freedom of the seas, and they traded with the world. I believe we should endeavor to retain the freedom of the trade lanes and markets.

Mr. VORYS. You would agree that, as a law-abiding Nation and as a peaceful Nation, there is no reason why we should get off the highways of the world while a couple of nations wanted to battle for the highways?

Mr. FADDIS. There is no reason in the world that I can see; and furthermore, I can see this difficulty in the future, in regard to our trade, in wartime: If we relinquish the right to trade with belligerents in wartime, then there will come a time when these dictatorial nations will demand that we also cease to deal with neutrals in wartime. In other words, I believe with Benjamin Franklin that, if you make yourself a sheep, the wolves will eat you.

Mr. EATON. May I ask the gentleman a question?

Mr. BLOOM. Yes, Dr. Eaton.

Mr. EATON. If Congress repealed the alleged Neutrality Act now existing, would you be willing to substitute for it a statement of principles expressing the position of the American Nation in these troubled times; that is to say, would you remove the straightjacket of statute law, which proposes to govern conditions that no man can foresee, and simply place back of the Executive a list or statement of fundamental principles to which we will adhere, for instance, the freedom of the seas? Would you be willing to substitute that for the vacuum which you propose to create?

Mr. FADDIS. I would have to know what principles would be included in that statement before I could answer that question, Mr. Eaton, but I believe that, with the Neutrality Act, the Chief Executive of this Nation is entirely too much hampered in time of war. It seems to me that it puts him very much in the position of a commander of the Navy would be put in, if he were sent out to accomplish a certain mission and were given absolute directions as to what kind of campaign he could conduct. It puts him very much in the position the captain of a ship would be put in if he were ordered to fasten the rudder of that ship and steer in a certain direct course, regardless of what obstacles he might encounter. I believe that the

President of the United States, at this time of the history of the world, should not be hampered by any hard and fast rule forced on him by what has been more or less a national hysteria.

I believe that very few of the men sitting on the floor of either the House or Senate, that voted for this Neutrality Act, in the first place, really believed that it would accomplish anything. I believe most of those who voted for it really believed it was a dangerous experiment, but back of it was a national hysteria that seemed to almost demand something of this kind. I believe that with our experience since that time, and our knowledge of what is going on in the world, regarding the tendency of these dictators to rape and murder and arson and territory-snatching—that we can see where it is leading us into a very dangerous position. To my mind, at least, it is putting us in a position where we are going to be unable to defend ourselves; because we are going to be unable to take advantage of any circumstance that might offer anything in the way of guaranteeing our national security.

To me, there is a vast difference between national defense and national security. In a military sense there is a great deal of difference between the word "defend" and "secure." The word "defend" means to prevent the enemy from seizing. The word "secure" means to go outside of the boundary of that which you are going to defend and not only prevent the enemy from seizing it, but prevent the enemy from doing any damage to it.

I can easily conceive of a situation in this world where an enemy might be able to do us a great deal of damage, and not be within striking distance of our shores. It has been said that international trade is the life blood of civilization. You can trace the rise of mankind from the stage of savagery by his knowledge of trading. When he learned to exchange his surplus products for the surplus products of others his standard of living advanced. Civilized views and higher standards of morality followed. I am convinced that if we adopt a policy of isolation in this country; if we allow ourselves to be completely encircled and shut away from trade by these dictatorial nations we will go back, our standards will go back, and our prosperity is bound to decrease. We will go back to the days when every family wove their own cloth, made its own clothes, tanned its own leather and made its own shoes, made its own furniture, raised its own foodstuff, and so on.

MR. BLOOM. Mr. Faddis, Mr. Shanley would like to ask you a question.

MR. SHANLEY. I understand, if you repeal this present act, it puts you in the status of the old days, in which we had the first neutrality act. That allowed us certain privileges under international law. Now, are you going further and adopt the so-called Thomas amendment and stating that as a policy—and I think this probably answers Doctor Eaton's question—that the President has the right to judge the merits of any quarrel in the world and apply force to inflict punishment on the aggressor? Is your bill positive, in other words? After you have eliminated neutrality, you want legislation to permit the President to attack the aggressor?

MR. FADDIS. No, sir. I have not advocated anything of that kind. I do not believe in the policy of allowing anyone to name the ag-

gressor. It seems to me that might put us in as bad a state of affairs as the present law. If for some reason or other we want to take sides, or for some reason or another we find it is necessary to assist somebody, we can do it without actually naming the aggressor. It seems to me this naming of the aggressor is also very dangerous. I see no necessity for it.

Mr. SHANLEY. As I understand it now, your fight for freedom of the seas is simply to limit the extent of contraband, as we did in the pre-neutrality days. In other words, you think we have got a right to ship as much as we want and where we want, providing it is not contraband, and the President's duty is to insist on the freedom of the seas, and insist also, as we did in dealing with the British, that we had the right to ship as neutrals?

Mr. FADDIS. Yes; and I would deny the right of anyone to name the contraband, because today it would be impossible for us to export anything that could not be claimed to be contraband. After all, there is rubber, tin, wheat, cotton, wool, copper, and a great many other commodities that are just as important, or even more important, to some of these warring nations and are lethal weapons. A great many of these nations can produce all the lethal weapons they need themselves, but it is to the outside world that they must look for food-stuffs and other commodities. I do not know that I would allow any nation to say what is contraband and what is not contraband, because today there is hardly anything that is not contraband in wartime.

Mr. BLOOM. Have they not done that in all previous wars? ?

Mr. FADDIS. Yes; throughout the past, during wartime, various nations have attempted to say what is and what is not contraband.

Mr. BLOOM. Yes; I am talking about contraband.

Mr. FADDIS. Do you mean who the other nations could deal with, and what was contraband and what was not?

Mr. BLOOM. Yes. Is not that governed by international law?

Mr. FADDIS. I am not an international lawyer, and I do not know.

Mr. EATON. That is the only law, Mr. Chairman, when neutrality is affected.

Mr. JOHNSON. As I understand, Mr. Faddis, your resolution is to repeal the existing neutrality law, and you do not offer any substitute in lieu thereof? You leave our rights and the subject of neutrality as it existed prior to the enactment of the first neutrality law, of which the present act is an amendment?

Mr. FADDIS. Yes; I rather see this Nation revert to the status that it occupied for 150 years prior to the present Neutrality Act.

Mr. JOHNSON. In other words, let it retain such rights as a neutral nation would have under international law, as decreed by international law?

Mr. FADDIS. Yes; that is right.

Mr. JOHNSON. And the President, of course, is, under the law, without statute or fundamental law—he has the right to preserve our rights with reference to international dealings with other countries?

Mr. FADDIS. Yes, sir; I would leave it in the hands of the President and the Secretary of State as it has been for 150 years prior to this time.

Mr. BLOOM. Mr. Corbett, do you wish to ask a question?

Mr. CORBETT. Yes, sir; I want to make an observation regarding contraband that is simply this: A nation at war has a right to name what is contraband.

Mr. BLOOM. Do they not have that right?

Mr. CORBETT. Yes; they have that right, but this does not mean that neutral powers may not protest.

Mr. BLOOM. Any further questions?

Mr. FADDIS. That is what a blockade means.

Mr. STEARNS. Mr. Faddis, I want to ask you if the effect of this would be to increase the initiative of the Executive as compared with the present power to name the aggressor, and so on?

Mr. FADDIS. I do not believe it would, if you would leave him entirely free of any instruction along this line; his initiative would not be increased.

Mr. VORYS. I understood you did not want the President to have the power to name the aggressor.

Mr. FADDIS. I said I did not favor any enactment of law definitely giving him the power to name the aggressor. I do not favor a policy of that kind.

Mr. SCHIEFLER. Is not the essence of the act its flexibility?

Mr. FADDIS. Yes; I want to give the President as much discretion as he was intended to have under the terms of the Constitution. The President of the United States is the Commander in Chief of our armed forces. He very often acts in a dual capacity, as Chief Executive and as the Commander in Chief. In that dual capacity, it is his duty to shape the policies of this Nation, so that the Nation will be in as advantageous a position as possible in keeping hostilities from breaking out; and, of course, in preventing us from becoming involved. I do not believe he can properly function in that dual capacity if he is bound down by such legislation as this neutrality act.

Mrs. ROGERS. Did not the Supreme Court, in effect, decide that the President has the power over Congress, or anything else, in declaring the aggressor or deciding what shall be done, in the Uruguay-Paraguay case?

Mr. FADDIS. I am not familiar with that decision; but, if that is true, I see no reason for giving him added power or added encouragement to do so by any legislation which we may enact. I certainly would be opposed to the enactment of any legislation that would give to the President the power to name the aggressor.

Mrs. ROGERS. Anyway, the legislation is a farce, is it not?

Mr. FADDIS. Do you mean this legislation?

Mrs. ROGERS. Yes; this neutrality legislation.

Mr. FADDIS. Well, the neutrality act to me is a farce, yes.

Mr. EATON. If we left the President free, he would have to deal with the aggressor, whether he names it or not. It is not necessary to declare war, but he would have to deal with the aggressor, would he not?

Mr. FADDIS. That is true. If a man attacks you, you do not have to declare he is the aggressor before you punch him in the jaw.

Mr. EATON. No; I would not do that.

Mr. BLOOM. Any further questions?

Mrs. ROGERS. Do you see any objections to Americans traveling on belligerent ships?

Mr. FADDIS. Not if they travel at their own risk. I see no reason why they should not, but they should travel at their own risk.

Mrs. ROGERS. That does not seem to inflame the people of the country, if they are injured.

Mr. FADDIS. I do not believe it does, very much; no. They take the risk now.

Mr. SCHIFFLER. How would you square that opinion with the *Lusitania*?

Mr. FADDIS. Well, the *Lusitania* was only the culmination of a great many details. Of course, there was an unusually large number of people destroyed at one time, but I do not believe the sinking of the *Lusitania* caused our entrance into the World War.

Mr. SCHIFFLER. Not solely, but it was the culmination.

Mr. FADDIS. Well, it was one of a great many other incidents which led up to it. But when you come to talk about our entrance into the World War, it seems to me it was absolutely inevitable from the very start, because of the fact that the balance of power in the world was about to be disturbed.

Mr. SCHIFFLER. Up to the 1st of March 1917, only three Americans had lost their lives on belligerent ships. I understand you would allow Americans to travel not only on belligerent ships but also on our own ships? You would allow the shipment of lethal weapons, and you would allow us to make all sorts of loans?

Mr. FADDIS. No; I would bar loans.

Mr. SCHIFFLER. How are you going to bar them?

Mr. FADDIS. I would bar them. When you eliminate the act, there is no reason why legislation cannot be passed in order to cover the other.

Mr. SCHIFFLER. I asked you if you would have positive legislation, and my understanding was that you said no; that you have enough now. You would eliminate all of this act?

Mr. FADDIS. Yes; I would eliminate all of this act.

Mr. SCHIFFLER. Then you would have to have no act?

Mr. FADDIS. No. Other legislation could be enacted.

Mr. SCHIFFLER. You would have to have some act embargoing loans? Of course it would embargo armed merchant ships of belligerents and submarines and the use of our ports as bases; is not that so? You would have to build a new act would you not?

Mr. FADDIS. I do not know that we would have to build any new act. I could not say whether you would have to build a new act to bar loans or not, but in the past that has not been necessary.

Mr. SCHIFFLER. This act sets those things out. In section 1, we barred the sale of arms and munitions of war. You would eliminate that?

Mr. FADDIS. Yes, sir.

Mr. SCHIFFLER. Section 2, "Cash and carry." That goes out May 1. Section 3 is on loans and securities; you would prevent loans to belligerents, would you not?

Mr. FADDIS. Yes.

Mr. SCHIFFLER. Section 4 deals with South American republics. So you will probably allow—you would have to have something in

there, because you certainly would not want the implication of this act, which to prevent us to embargo loans to South American republics, that is, at war? You would have to have an act for that; and you certainly would not want to eliminate that.

Mr. FADDIS. There would undoubtedly have to be other legislation enacted to pick up some particular parts.

Mr. SCHIFFLER. I am trying to get what parts are wrong.

Mr. FADDIS. That is something I am not prepared to say. I am not a member of the Committee on Foreign Relations. I have not given this matter the study that you gentlemen have. I am only looking at it from the broad viewpoint, in the manner in which I have made my statement, where there is danger to the security of the Nation, that it hampers the President in his activities and dealings with foreign nations at this time. That is my chief objection to it.

Mr. RICHARDS. I want to get your philosophy as closely as I can. You stated just now that it was inevitable, from the beginning of the last World War, that we were to get into it. It was inevitable, under old international law, that we were to become involved in the World War, yet you contend that we should repeal this act, which would carry us back to nothing but international law as a means to preserve our neutrality.

Mr. FADDIS. Yes.

Mr. RICHARDS. Do you feel it is inevitable, if Europe goes into a war, that we become involved?

Mr. FADDIS. That is something I could not tell you now.

Mr. RICHARDS. If you feel it was inevitable that we would get into that war under international law, without any law pertaining to neutrality, then it would be natural that you would feel now that, if we went back to that same system, we would become involved in any war that would disturb the balance of power now?

Mr. FADDIS. No; because I do not attribute the cause of our getting into the other war to the fact that the old international law was in existence.

Mr. SCHIFFLER. Wherein is the situation today different, Mr. Faddis, than the situation in the prior wars?

Mr. FADDIS. The European nations are not actually at war today and, if they do go to war, no one knows what trend the war will take. It might be over in 1 month and might not be over for 3 years.

Mr. VORYS. You said, I believe, Mr. Faddis, that the reason you felt our entry into the last war was inevitable, was because it threatened the balance of power in Europe. Do you feel that the threat to the balance of power now would involve our getting into it, eventually?

Mr. FADDIS. I am not venturing any opinion on a war that is to come. I am not talking about any war that is in the future. We do not know that there is going to be a war.

Mr. BLOOM. Any further questions? We thank you very much, Mr. Faddis, for your information. The committee is very grateful to you.

Now Mr. Fish would like to be heard at this time, as he has a very important committee meeting. So we will now hear from Mr. Fish.

**STATEMENT OF HON. HAMILTON FISH, REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. FISH. I will explain this bill as I go along, Mr. Chairman. At the outset of my remarks, I want to make it very clear, in spite of the fact that I happen to be partisan in my views and have been for a number of years, that on this particular bill I have not been partisan, because I held the same views under the last Republican administration and opposed the attempt of former Secretary of State Henry L. Stimson, who appeared before this committee, when he sought to determine the aggressor nation for the administration at that time. I fell in behind all of these efforts to amend the neutrality law, but not in any attempt by the administration to get the power to determine the aggressor nation. I submit to this committee that, if that power is given to a Democratic or Republican administration—it makes no difference which—it takes away from the Congress of the United States its constitutional powers to declare war. Now, to determine the aggressor nations and to quarantine and punish those nations is actually turning over the constitutional power of the Congress to declare war. I submit it is synonymous, or practically identical. I think most of the efforts to do away with the neutrality legislation are prompted by the desire of the administration, and some members of the former administration, such as Mr. Stimson, to give that power to the President and the Secretary of State.

Furthermore, I am opposed to any changes of the neutrality law to give this administration, or any administration, the power to enter into collective-security arrangements, economic sanctions, military and naval alliances, or to enter into any form of foreign entanglements or war commitments.

Those, fundamentally, are my two objections to the proposal made by some people—not all of them—who desire to change the neutrality legislation.

Now, what is this neutrality legislation? I think, Mr. Chairman, the record will bear me out that I was the first member 11 years ago to propose neutrality legislation along these general lines in this committee, back in 1928, when former Senator Burton and myself proposed the original bills. What is the object of all of the neutrality legislation? To keep us out of war. We must make certain sacrifices to keep out of war; yet we all know that no legislation will keep us out of war. We all know, absolutely and definitely that the Congress, this Congress or any other Congress, can never reach any guarantee by legislation that will keep us out of war. We can however write legislation that will have the tendency of keeping us out of war, and I believe that is what we are all gathered around this table trying to do.

I am going to try to limit my remarks to 10 minutes, because I know you want to give everybody a chance to be heard today, including other Members of Congress, and you can hear me at any time in executive session.

The original neutrality bill was a flat embargo on the shipment of arms, ammunition, and implements of war, to all belligerent nations. That came about because we knew that, in the World War, we were shipping arms, ammunition, and implements of war to foreign na-



tions, and naturally those nations who could not and did not receive arms and ammunition and implements of war did their best to sink our ships; and if you reverse the situation, we would have done likewise.

There was nothing immoral in Germany trying to stop these ships filled with ammunition, arms, and implements of war from going to their enemies, and to my mind it was consistent. Our action, at that time, was consistent with international law. International law permitted the shipment of arms, ammunition, and implements of war, and it still does.

So we know from experience, and are able to base our views upon our experiences in the World War. The Congress determined by practically a unanimous vote, that it would prohibit the shipments of arms, ammunition, and implements of war in the future which we have done, and they prepared a definite law which was supported by Republicans and Democrats alike.

Then some people thought that we ought to go further with the neutrality law, and in the last Congress there were introduced in the House and Senate bills that went much further, with the cash-and-carry feature. I admit that I supported the cash-and-carry feature reluctantly. I think now, and thought then, that it should be modified, and my bill carries no such provision. While I know very well, Mr. Chairman, that any bill having my name will never pass, I am only advocating a principle, and I do not care who endorses it, or who else introduces it, as long as the principles are included. My bill, very simply, provides for a prohibition against shipment of arms, ammunition, and implements of war to all belligerent nations. I cannot understand why we should continue to be the slaughterhouse of the world for profit or for money, or why we should endanger our peace and security by being involved in a war by selling arms, ammunition, and implements of war to belligerents.

I go much further than any single member of this committee on this proposition; I would even prohibit the shipment of arms, ammunition, and implements of war in time of peace, as well as in war, but that is not included in this bill. The bill I propose carries into effect what we have all agreed on for years, to prohibit the shipment of arms, ammunition, and implements of war to all belligerent nations, and continues the prohibition against the loaning of money and the extension of credits to belligerent nations. It does not continue the present cash-and-carry plan, which expires May 1. We are not likely to approve any legislation before May 1, and we will probably have to write new legislation in place of the cash-and-carry plan. Some of us on the committee are perfectly satisfied to have just this ban on arms, ammunition, and implements of war, on loans, and on the right of our citizens to travel on belligerent ships, which is also in my bill.

**Mr. JOHNSON.** You want no cash-and-carry plan?

**Mr. FISH.** No. As for the cash-and-carry plan, I have not changed my views from the last time when I spoke against it. I asked for the modification of it at that time, but of course it was voted down, because it was not in the committee bill. The way the cash-and-carry plan now is framed, there is an intolerable hardship and discrimination on American ships. It says American ships are prohibited from

carrying of what we call contraband, or materials, munitions of war, which are different from arms, ammunition, and implements of war. They cannot carry, for instance, foodstuffs, cotton, or copper, or anything else, but an enemy ship, or a belligerent ship, or a neutral ship may come here and take all they want, while ours are tied up in a harbor, which to me is utterly un-American policy, an unsound proposal, and intolerable hardship and discrimination on our merchant marine.

I, therefore, advocate in the new cash-and-carry plan, that American ships be permitted to carry all of these so-called contrabands, everything that is considered as contraband today; if foodstuffs are contraband, everything else is contraband. Let us call it contraband, because others call it contraband. I say that we can carry anything we want, outside of arms, ammunition, and implements of war. I say let the manufacturer ship the goods by the cash-and-carry plan, or some other similar plan, to the foreign owner, let them carry these goods to belligerent nations, or any other nation, but when they carry such contraband to belligerent nations, they do so at their own risk. They insure the ship, and they have nothing to lose, but they carry it at their own risk into what we call the war zone or to the belligerent nation. During the World War I think Norway lost a thousand ships, but she did not go to war. Recently, in the Spanish Civil War, Great Britain lost about a hundred ships, but she did not go to war.

Therefore, we say to our citizens, "You can do this at your own risk," and we can say to these shipowners, "You can ship these goods and you can insure your ship, but if you insist on going into the war zone or selling to belligerent nations, you are not going to involve us in war." That would be my modification. I would not go into the question of contraband, because nobody can describe what contraband is. I would simply let the American ships do exactly what every other nation's ships are doing, but state in advance, "If you carry goods to enemy shores, and your ship is sunk that is your own risk and we are not going to war over it." That would be a sacrifice, of course, under the principles of international law which gives us the freedom of the seas, but we do not want to be involved in a war reaffirming or reasserting our rights under international law. We are carrying out the same precedent established by Great Britain, and by Norway and Holland and Sweden and all of the other nations that were able to stay out of the last war.

What everybody is thinking about in America is, "How can we keep out of war?"—that is the question we have got to try to solve here, and I am making these suggestions in my bill for anybody to share who wants them.

I will go along with any group on any bill that is sound and will have a tendency to keep us out of war; but I will fight to the very last last any attempt to delegate away from the Congress of the United States any of its constitutional powers, to give the President the power to determine aggressor nations, to enter into any collective security arrangements, which will endanger the peace of this country.

I do not agree with what some of the witnesses are going to say here. I think that the Congress of the United States makes its own policies, and I think it is the duty of this committee, as much as

that of the Senate, not only to write a neutrality bill, but to include a declaration of policy, and it is the duty of the President to carry out foreign policies so enunciated. Under the Constitution, the President has not any of these powers on international policies, except to negotiate treaties and to appoint ambassadors. We are the ones who are supposed to write the policies, not the President of the United States. He is merely the organ to carry out the enactments of Congress. He is the instrument, the administrator of our laws, because we in Congress have no dealings with foreign nations. So I submit that this committee should write this bill, the House of Representatives should legislate and enact laws relating to our foreign policy in the same manner as the Senate.

Mr. JOHNSON. Will the gentleman yield?

Mr. FISH. Yes.

Mr. JOHNSON. Your statement that the Congress initiates the negotiations with foreign nations is entirely in conflict with the opinion of the Supreme Court in the *Curtis-Wright* cases.

Mr. FISH. No; not all.

Mr. JOHNSON. The gentleman and I must have read different cases.

Mr. FISH. No; we might have gotten different interpretations. I do not think that is very important, but it does say that the President is the organ of dealing with foreign nations.

The President has no other power beyond that to negotiate treaties and appoint ambassadors and carry out the policies we make; and I do not think the gentleman, himself, wants it to be understood that the Congress has not the right to make policies of that sort.

Mr. JOHNSON. Through history as it is traced, that same opinion goes right back to the very beginning and shows that the initial steps have to be taken by the President with reference to these various dealings with foreign countries. And he has the power so to do without any act of Congress. This is his inherent right under our system of government.

Mr. FISH. Not at all. He has the right of negotiation, and you and I on this committee have no right to deal with a foreign country.

Mr. KEE. With the exception of the modification of the cash-and-carry clause, your bill is just about the same as the original neutrality bill, the present neutrality bill, is it not?

Mr. FISH. Yes; I keep practically everything in the present neutrality law except the cash-and-carry plan with that intolerable discrimination against our shipping interests.

Mr. KEE. I say with the exception of your modification of the cash-and-carry plan?

Mr. FISH. Yes. I do not say I have any pride of authorship in this. I might support anything that will have the same tendency to keep us out of war.

Mr. BLOOM. What section of the Constitution, Mr. Fish, do you refer to, with reference to the foreign policy of the President?

Mr. FISH. I refer entirely to the section that gives the power to appoint ambassadors and negotiate treaties, and submit that he has no other power except in dealing directly with a foreign country, because he is the organ of Congress in doing that.

Mr. EATON. May I ask a question?

Mr. BLOOM. Yes, Doctor Eaton.

Mr. EATON. You say the President is the organ of Congress in dealing with a foreign nation?

Mr. FISH. I mean of the Government.

Mr. EATON. Is he not the organ of the Nation?

Mr. FISH. Yes; and of the Government, and of the Congress, too.

Mr. EATON. He is the instrument——

Mr. FISH. He is the spokesman.

Mr. EATON. He is the man of the United States who deals with them?

Mr. FISH. Yes, sir.

Mr. EATON. And Congress' duty is to furnish him with the principles upon which he is to act, or to wrap him up in statutory law?

Mr. FISH. No; I say the Congress has the definite power to write these principles. If it does not write them, he has the power to deal with them as the sovereign representative of this Nation.

Mr. VORYS. Is it not the distinction, Mr. Fish, that the Congress, through its appropriation power, through the Constitution, has the power to declare war and keep us out of war, and to define the offenses against the laws of the Nation and the punishments of them?

Mr. FISH. You can put your finger right on it when you say "offenses against the laws of nations." That is the whole thing. That is what Congress has to do, and for some reason, we seem to think we have no powers at all while actually the Constitution gives us these powers and expects us to carry them out.

Mr. VORYS. What we do, what the Congress does under the Constitution, determines what our national policy shall be, and the President then executes them, with tremendously broad powers. But all he does is execute those powers, which the Congress has determined?

Mr. FISH. Yes, with the approval of Congress and I would add, that is what he should do.

Mr. CHIPERFIELD. Do you think it is possible for Congress to define aggressor nations?

Mr. FISH. All I can say is, that in past history, up to the present time, aggressor nations have never been defined, and the historians are still disputing as to who started the World War. You will admit that Japan was the aggressor against China, and that Italy was the aggressor against Albania and Abyssinia. I think we could probably agree on those things. But if anybody is given, be he Republican or Democrat, that power to determine aggressor nations, to punish aggressor nations, that means giving him the power to declare war.

I thank you very much.

Mr. SHANLEY. I do not think anybody doubts your sincerity in it, but this *Curtis-Wright case*, as Mr. Johnson suggests, is a very important one.

Mr. FISH. Do you not think we ought to take that up in executive session?

Mr. SHANLEY. I will yield to the gentleman on that.

Mr. BLOOM. Thank you very much, Mr. Fish.

We will now have the pleasure of hearing from Mr. Maas.

(Thereupon, the committee proceeded to the consideration of H. R. 79; see p. 625.)

**STATEMENT OF HON. MELVIN J. MAAS, REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA**

Mr. MAAS. Mr. Chairman and members of the committee, I have introduced H. R. 79, which not only repeals the Neutrality Act in its entirety, but goes considerably further than that and establishes a definite international policy for the United States.

I think that it is essential both for our own people and the people of the world, to know what the American policy is to be. I think it is almost more important that we have a known policy than the details of the policy itself. It is very difficult for our own people to anticipate the future, and certainly very difficult for the people of the world to understand us, without knowing what our course is to be. I do not believe we can prescribe, in detail, a course of action in international affairs, nor to try to prescribe, in minute detail, dealings with foreign nations by our constituted authorities; but we must have at least a definite broad policy as a guide, which is now lacking.

I have only one sole interest. Perhaps I am quite provincial. My sole interest is in protecting the United States and in preserving democracy in this country. That is not such a heartless attitude as it may at first seem. I am not opposed to our assisting other nations because of lack of sympathy for them, but because we have found, from practical experience, that we cannot solve the problems of other nations for them.

This is not a war between ideologies, whether or not we think it is. The wars that are raging in the world today are economic wars and we ought to be realistic enough to face the facts. Our trouble is, that we are living in an "Alice in Wonderland" existence, and we are not nearly realistic enough in this country. Our life-line is the whole Western Hemisphere. We are going to enforce the Monroe Doctrine, not essentially because of our great humanitarian feelings toward our neighbors, but because it is essential to our very existence that we defend the Western Hemisphere, and keep any European or Asiatic power from gaining any new footholds here.

What I have attempted to accomplish in my resolution is to state a definite policy, which is, that we will not invade any other nation for the purpose of acquiring territory, and that we will not interfere in local foreign quarrels; that we will never intervene in a civil war, nor an international war, so long as they do not conflict with our own interests, and by the same token, we announce to the world as a national policy that we do not intend to permit any overseas nations from coming over into this hemisphere, either politically or economically, and by economically, I mean establishing economic monopolies in any part of this hemisphere.

I think if the peoples of the world know that they have nothing to fear from us, that we are not going to invade them, that we are not going to interfere in their affairs, that then the peoples of the world will not be afraid of us; that they will not be misled into fearing military preparation for our own defenses, nor misunderstand the building of an adequate Navy and adequate air force, and adequate Army for this own hemisphere's defense.

At the same time, if we warn the rulers of the world, whether they are democrats or dictators—which after all really matters very little to us—if we warn all of the governments of the world not only that we do not intend to permit any other nation to invade this hemisphere, but if we assure them that if they attempt to invade it we can, and, what's more, that we will inflict greater damage upon them than they can upon us, they will let us alone. There is nothing that will destroy this Nation so completely as a shore-defense-only policy, which unfortunately is so popular in this country today.

Mr. JOHNSON. Does the gentleman believe that any government believes, today, for a moment, that this country would not defend itself, if it is invaded, if we were invaded?

Mr. MAAS. The question is whether we will be able to defend ourselves, which includes all of North and South America.

Mr. JOHNSON. I have a great respect for the gentleman's views, because I know he has thought a great deal about these questions. What I am trying to arrive at is, what advantage does our Government obtain from giving notice to foreign countries of what we are going to do; in other words, that we would defend ourselves? Is not that recognized? Does not our history vindicate that position, without the necessity of passing legislation to notify them?

Mr. MAAS. Yes; but the gentleman misinterpreted my point of view. I am just saying that nothing will destroy this Nation so entirely, so quickly, as saying we will only defend this hemisphere in this hemisphere. We must defend our interests as well, when they are legitimate and vital, wherever they may be.

Mr. JOHNSON. I may have misinterpreted the reading of the clause "or any of its territory or possessions."

Mr. MAAS. Or its rights. I do not mean necessarily that we should protect the Standard Oil Co. in China. I do not believe that we have any vital or essential interests in China, but we have absolutely essential and vital interests near there. We must defend our right to send our ships and defend those ships, as well, anywhere in the world that it is essential for us to obtain raw materials. In order that we may have free access, for instance, to rubber, tin, tungsten, and other commodities, we must go to the Malay States. We must have uninterrupted commerce with those possessors of raw materials, because, if we voluntarily, or any other way, become shut off from them in this country, we will be destroyed economically, without our being involved in war at all. Unfortunately, this country is not self-sufficient, nor is the Western Hemisphere self-sufficient. We have to import large quantities of essential raw materials to keep our peace-time industries going.

I am opposed strongly to the system of blockades. As some of you members well know, I was a member of this committee for 6 years, and I successfully fought during that time every attempt to provide a system of blockades. The policy of blockades or embargoes is fundamentally wrong, in my opinion. Surely, if the United States had a complete, exclusive monopoly on all of the contraband, which means everything from guns to food, we might then be successful in a system of embargoes, and we might prevent war, by denying to every warring power everything, of any nature. But, unfortunately, we do not have exclusive control of all of the

world's resources, and so when they do not get them from us, they get them from some other place, so our embargoes are ineffective anyway.

Mr. FORD. I notice your resolution sets out, as a part of the policy, that you will not invade a foreign nation.

Mr. MAAS. That is an error. That should be for the purpose of aggression and acquiring territory. It should read, "Shall not invade any foreign nation for the purpose of aggression or acquiring territory." I do not mean I would never invade any foreign country. There is only one thing, gentlemen, that keeps an aggressor away from your doors, and that is not mere defenses. That helps, of course, but no nation can survive merely with superior defenses, nor can the United States any more than any other nation. In all history, no nation has been able to do that, because, while we might keep the aggressor from immediately entering our country, we can be besieged and ultimately starved into economic submission. What keeps the invader and aggressor away from your territory and protects your essential rights is the certainty that, so surely as he invades you, you will retaliate and inflict greater damage upon him than he can inflict upon you. If he knows that he will suffer greater damage than he can inflict, he will desist from aggression.

Mr. JOHNSON. Which might require you to invade his country?

Mr. MAAS. Certainly, it might. It is necessary to provide ourselves with a military system—

Mr. JOHNSON. That was put in there by mistake?

Mr. MAAS. That is a typographical error and should be "no invasion for the purpose of acquiring territory."

Mr. RICHARDS. On page 2 of your bill, I would like to explain, you say that, so long as the Neutrality Act continues to be law, the failure to invoke its provisions must necessarily be interpreted by an aggressor nation as a definitely unfriendly act. What do you mean by that?

Mr. MAAS. I mean that an aggressor nation has better access to supplies than an invaded nation, and also, generally less urgent necessity for them anyway than the invaded nation. This is because the aggressors usually have a navy, and therefore control the seas or seaports of the country they invade, and thereby can deny to their enemy access to supplies, which they themselves can continue to obtain. Also, a nation planning aggression, accumulates huge supplies before it starts its invasions. For these reasons, for us to invoke the neutrality law, practically shuts off a country fighting against invasion, and thereby hurts that country far more than the aggressor. Conversely, not to invoke the neutrality law, when warfare actually does exist, shows on its face an unneutral attitude by permitting the invaded country to continue to get war supplies from the United States.

Mr. RICHARDS. I agree with you about that, but do you when you say it must necessarily be interpreted by the aggressor as a definitely unfriendly act?

Mr. MAAS. Yes; I think that is correct.

Mr. RICHARDS. If that is the case, the aggressor nation would not be aggrieved, it would be the other party, because the aggressor nation could get whatever it wanted, anyway?

Mr. MAAS. No, no. If we were to enforce the Neutrality Act it would immediately, in the case of China for instance, shut the Chinese off from their main source of supplies. My own sympathies may be with China, but certainly that is the only interpretation that could be put on it. If the Neutrality Law were not on the statute books no such situation could arise. So long as it is on the statute books, trouble is always likely to arise, because then discretion exists as to whether it will be enforced, or not. I believe there is only one sound, fundamental neutrality possible. Neutrality which treats all alike, in effect as well as in name.

Mr. BLOOM. How would you determine the aggressor nation?

Mr. MAAS. I would not determine the aggressor nation until it became aggressive toward us. That is our only interest. When we attempt to be the policemen of the world is when we get into all of our troubles.

Mr. BLOOM. Then you would not determine the aggressor nation?

Mr. MAAS. I certainly would not, until they aggressed against us, and then I would determine it so quickly that they would never care to do it again.

Mr. SCHIFFLER. Mr. Maas, I take it you believe it better to have our frontier on the Rhine than to have it on the eastern seaboard or western seaboard of this country?

Mr. MAAS. My own opinion is that our frontier ought to be wherever there is any danger to us, whether it is on the Rhine or the Danube or in Russia. It is not adequate that we simply have a great many coast-defense guns around our country. That is not going to deter anybody from invading South America, where our essential interests also lie. It is not merely sufficient that our ships, as my good friend Jeannette Rankin says, may go 500 miles out sea, because the Panama Canal is further than that; and Mexico might easily be invaded as a basis for the operation of some overseas power. It is essential that our Navy be prepared to go anywhere in the world where there is a source of danger to us and be able to keep that danger away from our shores, or when necessary to destroy that danger long before it can inflict damage upon us at home or abroad.

I am not in favor of invading any nation anywhere. I am opposed to our getting involved in overseas wars at all, but the only thing that will keep the overseas powers overseas is the knowledge that if they attempt to come over here we can go over there.

The reason I was so earnest in support of the bill to fortify Guam was because I know if we had fortified Guam, Japan would never leave the Orient. To do so under such circumstances would be suicide for Japan because it would separate her fleet from its home base. Therefore I think if you fortify Guam you will keep Japan in Japanese waters. You cannot invade from a fortified position. Fortifications are for defense. You cannot take a fort and invade somebody with it. So that fortifying Guam would be no threat to the peace of anybody on earth. It would be a threat only to somebody who had aggressive intentions toward this hemisphere.

Mr. EATON. Mr. Maas, I gained the impression that you have been quite consistent. As I understand it, your view is that this great Nation, the greatest in the world, had no moral obligation to the world at large outside of the Western Hemisphere.



Mr. MAAS. How is that?

Mr. EATON. As I understand it, your view is that this Nation, the greatest upon the face of the earth, is without any moral obligations toward the rest of the world, outside of the Western Hemisphere, except you wish to purchase, but not to sell abroad, and when you purchase, to send our ships, if it is necessary, to make the purchases possible? Is that a fair statement?

Mr. MAAS. No, no; because I believe you have to sell as much as you purchase. No matter how rich a nation is, if it only buys and never sells, ultimately it will go broke.

Mr. EATON. How are we going to confine our economic influence to the Western Hemisphere and it alone?

Mr. MAAS. I would not. I would defend our commerce, wherever it may be.

Mr. EATON. Meanwhile you are willing to sit here and have—let us take an illustration—have Germany and Italy form an axis and conquer the rest of the world, outside of the Western Hemisphere?

Mr. MAAS. Are we in position to judge the rest of the world? You know we have a great habit of setting ourselves up as little tin gods and judging everybody else. I have the same opinion you do, but I am unwilling to foist that opinion on the rest of the world. I do not know all that is going on in Germany, and I do not know all of the ins and outs of their affairs any more than they know ours, and I am unwilling to judge or have anybody else in this country jeopardize American boys upon such prejudgment without sufficient knowledge, which certainly none of us over here have. We did that once. Doctor, it is not that I am not sympathetic or that I am cold-blooded about it, but we went overseas and tried to preserve democracy once and we did not even preserve the Democratic Party, because it got beat in the next election.

Do not get us into another war now, or you will surely go out again.

Mr. VORYS. I do not quite get your distinction. You said we should defend our commerce all over the world, yet you said you were opposed to defending the Standard Oil Co. in China.

Mr. MAAS. No; I did not say I was opposed to it. I said my position is not that I simply want to go over and defend the Standard Oil, because so frequently those who advocate an adequate Navy are accused of wanting to defend predatory interests. My point of view is that we must defend America's essential interests, wherever they are, whenever they need defending. A nation which refuses or fails to defend and protect its own interests soon ceases to be a nation and becomes a vassal state, such as we see happening all over the rest of the world.

Mr. VORYS. Then you do want to defend the interests of the Standard Oil in China?

Mr. MAAS. Yes; if they are vital. I do not think they are vital to us in China at the present moment. I do not think they are vital to us, in that particular illustration, but there are some interests that are vital to us in the Orient. They are so vital to us, that without their protection the United States will collapse internally.

Mr. STEARNS. Who are going to determine what are vital interests?

Mr. MAAS. I think the Congress should determine that. I have been strongly of that opinion.

Mr. EATON. Would that outlaw things like the Standard Oil?

Mr. MAAS. No; I would not outlaw them.

Mr. EATON. What would you do, if they were in China and they are Americans? They ought to be just as safe as if they were private individuals, ought they not?

Mr. MAAS. No, not necessarily, it depends upon whether our national interests are involved. There is no threat to our national interest about protecting some oil barges on the Yangtze River. They might become vital next year, and if so we should then protect them. Therefore, I do not think you should nor can undertake to write a rigid law.

Mr. JOHNSON. If Congress is going to determine whether it is vital that is all right, but it is going to take a little while to get Congress in session to determine the vitality of the question. What if Congress happens to be in recess? What could happen before Congress was called together? Would not the President have to determine that?

Mr. MAAS. To a certain extent, he would. But I mean the question of whether we are going to go to war over it should be determined by the Congress. As to the question of protection, I grant you there is a considerable danger of going down that road to war, but we have to permit some discretion in the President, or else abolish the Presidency. He does have the duty, as Commander in Chief of the armed forces, of having to protect our interests. But also with Congress, vital national policy should be kept with Congress, or abolish Congress.

Mr. SHANLEY. Mr. Faddis, in his testimony, seemed to divide all materials into two classes, lethal and nonlethal. Then he said the nonlethal commerce could be carried on American vessels, at the risk of the American owners, and then comes necessarily the question of ownership. As I understand it, you are against that?

Mr. MAAS. Yes; talking about lethal and nonlethal weapons, the most lethal weapon of all is food, because you can starve a nation into submission or into destruction if it is without food. I have shown you that.

Mr. SHANLEY. You think that his doctrine just wipes out the doctrine of contraband?

Mr. MAAS. Yes.

Mr. ALLEN. I would like to return to the first chapter on page 58 of your bill, and I think you are confused there regarding the present Neutrality Act. There is no provision in the present Neutrality Act to name the aggressor, and if there is not any provision there, would you not apply it against both parties?

Mr. MAAS. Yes.

Mr. ALLEN. You indicate on page 58, if the provisions of the Neutrality Act were invoked, it would be against the aggressor and in favor of the other belligerent?

Mr. MAAS. No; I said, if you invoke the Neutrality Act it will be of assistance to the aggressor. I did not say in naming the aggressor. I said the failure to invoke the Neutrality Act, which I have specified here, is of assistance to the nation which is being invaded. When you fail to invoke the Neutrality Act, you are permitting China, for instance, to continue to buy from us. China has no navy, Japan has. If we enforce the Neutrality Act, Japan can still buy from other parts of the world, but China cannot.

Mr. JOHNSON. You think the failure to enforce the neutrality law would be better for China than if it had been enforced?

Mr. MAAS. Yes, I do; but, of course, I am not saying that it should be enforced; not at all. I am in favor of its entire repeal. But it ought to be enforced or repealed, for it is a constant source of potential danger to have it on the books and not enforce it.

Mr. BLOOM. You believe that the present Neutrality Act should be repealed?

Mr. MAAS. I certainly do.

Mr. RICHARDS. Mr. Maas, you will admit that since the enactment of this law it has not had any tendency to get us into any war with any foreign country?

Mr. MAAS. It has not been enforced, but there is always the potentiality.

Mr. RICHARDS. Well, the nonenforcement has not had a tendency to get us in a war, has it?

Mr. MAAS. It has certainly, I think, further antagonized the Japanese toward us; and our recent loan, incidentally, to China has even further antagonized the Japanese. They are a little more resentful and a little more bitter toward us, and they complain that we enforce it in one part of the world and not in another.

Mr. JOHNSON. I do not understand how the existence of the neutrality law and its nonenforcement has caused the Japanese to become embittered toward us.

Mr. MAAS. They know it was put on the books; and if we did enforce it, it would aid the Japanese; at least it would have hurt China and shortened the Chinese resistance. I am not in favor of enforcing it, but I am trying to show you how it works. Knowing that the law was on the books, and knowing that the enforcement of the law would help Japan and would cripple China, the failure to enforce it may be interpreted only in one way, and that is as a desire on our part to help the Chinese.

Mr. EATON. You think that the antagonism is there because of the nonenforcement of the present neutrality act?

Mr. MAAS. Yes; at least it has been intensified.

Mr. SHANLEY. The so-called democratic nations would like to have this whole thing eliminated, as I understand it. Obviously, the Japanese would be affected by it. Now, you have got a complication of interests.

Mr. MAAS. At the present time Japan has pretty well conquered China for all practical purposes, or at least the practical purpose of preventing China from getting any further military assistance. There was a time when the Chinese still had a national entity, which she does not have today; and history might have been different if greater assistance had been given to China. I think, on the other hand, China would have been subjugated more quickly if we had denied the Chinese any assistance at all. I think, personally, we ought to have let China have all that she could buy here. I am not in favor of embargoing anything, including loans, although I would want good security. The next time if we loan Great Britain any more money, I am in favor of taking the Bahamas for security.

Mr. SHANLEY. You are just as much anxious to see Germany and Italy affected by it?

Mr. MAAS. Neither Germany nor Italy are substantial customers, so far as war materials are concerned.

Mr. SHANLEY. They are vitally interested in this act; and Japan, as a member of that group, would certainly be selling their interests down the river if she were not interested.

Mr. MAAS. I think undoubtedly Japan, Italy, and Germany would prefer to have us maintain the act.

Mr. SHANLEY. Then you are choosing between them?

Mr. MAAS. No; I am only choosing between America and all of the people on the earth. We have arrived at a stage where we cannot set ourselves up to judge other people. We did that once, and you know what happened to us.

Mr. SHANLEY. Yes.

Mr. MAAS. It did not work. I want to say that I, too, had high ideals about the war to end wars and making the world safe for democracy, but it did not work and it will not work again. The greatest service that we can perform to the preservation of democracy and the ultimate preservation of civilization is to at least preserve peace in this hemisphere, so we will have something upon which to rebuild the world. If we get involved in a European or Asiatic war outside of our own vital interests—and I see no reason why we should become involved unless we talk too much; but if we do become involved we will so spread our energies and dissipate our resources so that we will not be able to defend this hemisphere, and we will go down with all the rest; we, too, will be destroyed.

Mr. ALLEN. In your bill you do not mention this hemisphere. You just mention the United States and its Territories. Nothing is mentioned regarding a policy regarding the hemisphere.

Mr. MAAS. No; I said here—if you look at the very bottom of page 58—“supported by adequate defense against the invasion of America.” That is North and South America.

Mr. ALLEN. You use it that way?

Mr. MAAS. Yes; I am using it as it should be used, not merely to refer to the United States alone.

Mr. ALLEN. “America” is often interpreted as meaning the United States.

Mr. MAAS. Mr. Bloom suggested I should have said “the Americas” which perhaps is more correct. But I think everybody understands what we mean when we say we will defend America.

Mr. ALLEN. Do you mean Canada?

Mr. MAAS. I certainly do. We cannot any more permit an invasion of Canada than we could of Patagonia.

To summarize; our present so-called neutrality law, if enforced, is unneutral and makes us a partner of the aggressor. We perform for him the same service his navy otherwise would have to do; that is, we embargo the invaded nation and spare the aggressor the necessity of blockading the invaded country.

Not to enforce the law definitely shows our sympathy for one side against the other and, therefore, becomes an unfriendly act toward one side. This will lead to at least future trouble, surely after the conquest is over. Inevitably we ourselves will be discriminated against in trade and treatment in the conquered country as well as in the country that did the conquering.

This is all the more apparent when we enforce the neutrality law in some parts of the world and not in other parts. If our sole desire was to remain out of all world affairs, at least where wars are going on, we would stop all trade everywhere when wars or fighting were in progress.

The truth is, we didn't foresee the situation that would exist in the Orient when we passed the Neutrality Act. That is just the point. We can't possibly anticipate all the possible situations that may arise and, therefore, we can't adequately provide against all situations.

In unexpected circumstances, a rigid law may become, as in the present case, very embarrassing and even dangerous.

On the other hand, to make it discretionary and leave the discretion with the President is even more dangerous. To openly discriminate between nations who are engaged in warfare, such as embargoing one side and not the other, is most dangerous. While such an embargo may not in itself be an act of war, it certainly is something that would take us down the road to an inevitable war for us.

The safest course, with the greatest possibility of security for us, and the least danger of involving us, is for the United States to remain rigidly neutral but vigorously determined to protect this hemisphere and our essential, vital interests, including the freedom of the seas. If the world knows that we can and will defend our interests and our shipping, neither will be violated and we won't need to become involved in foreign wars.

We were dragged into the World War, not because of our original neutrality policy, but because we failed to enforce and defend that policy. The British were the first to sink our ships and to interfere with and restrict our shipping. We did not retaliate as we should have.

Later, when Germany found itself cut off from supplies from the United States, it set out to try to deny those supplies to its enemies, France, England, and Italy. The Germans were convinced that we would not go to war in retaliation for sinking our ships, since we hadn't done so when England sank our ships and blockaded neutral ports against us.

Had the United States rigidly adhered to its neutrality policy from the beginning, and defended our shipping, we would never have been drawn into the World War; and we had no business being in it.

Our peace and security lie in our remaining out of the overseas quarrels, in which our vital interests are not affected, and in maintaining such a naval establishment as will insure the protection of our commerce.

No nation will sink our ships, blockade neutral ports, nor invade, directly nor indirectly, this hemisphere if such a nation knows that to do so will bring immediate and effective military reprisals from us.

The defense of the United States requires more than the mere ability to hold off an invader from our shores. It requires that we be able to vigorously punish any aggressor against us and to do so in his own homeland.

When the world realizes that, we will be let alone. No mere law will guarantee our peace any more than the prohibition law guaranteed morality in the United States. It takes character, courage, and strength in the individual to obtain morality, and just so, it takes

national character, courage, and strength to obtain and maintain peace and security abroad.

As prohibition failed and we had to repeal it, so too, our experiment in neutrality by law is a failure and should be repealed.

Mr. BLOOM. Any further questions? If not, we thank you very much, Mr. Maas.

Mr. BLOOM. We will now hear from Mr. Wadsworth.

**STATEMENT OF HON. JAMES W. WADSWORTH, REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. WADSWORTH. Mr. Chairman and gentlemen of the committee, I appreciate the courtesy extended to me in inviting me to come here to take part in this discussion.

I am aware of the fact that I am not an authority on international law, nor am I versed in history as much as I would like to be. I may relieve your minds a little, inasmuch as I have not yet introduced a bill. Perhaps that is fortunate for me, because, as a result of my not having introduced a bill, I shall not be quite so much on the defensive.

I have listened with a great deal of interest to the discussion that has taken place here this morning. You have heard the wisdom, or unwisdom, of the Government of the United States, through the Chief Executive, attempting to name the aggressors. I admit that nothing of that kind is contained in the present law, no power of that sort; but, in reaching the core of this question, we must remember that the naming of an aggressor is to be followed by the employment of some sort of sanction against him. I assume that is the theory upon which some people propose that the President of the United States be empowered to name the aggressor. If he merely named him, and then took no further steps, the world would laugh. Now, the laying of an embargo is a legislative act directed not only against the nationals of the offending nation but against the citizens of the United States, who are told in the law that it will be thereafter illegal and punishable for them to engage in certain sorts of commerce. So I think that no one will deny that it is essentially a legislative act applicable to all of the people of the United States.

I am willing to admit there are certain forms of government in which the executive is able to take very prompt action in the defense of his nation, as in the British form, in which the executive is merged with the legislative, is a part of the legislative branch. The same is true of France. To a greater degree it is true in Germany and Italy where, apparently, a very clique in each of those countries can determine overnight what the country is going to do. I admit there are certain advantages in that sort of government, but I think those advantages are far outweighed by the disadvantages ultimately to be encountered.

Under our form of government, the lawmaking power rests with the Congress, with the cooperation of the President, whose signature of approval is required upon our enactments. We should not delegate—certainly not in time of peace, and I doubt very much if we should do so in time of war, except in the most restricted manner—we should not delegate the lawmaking power to the Chief Executive, for while we might want to do so in face of certain circumstances, it

would come back to plague us. That power, once delegated, might not be recovered at the end of the contest.

It strikes me, as I have endeavored to read the story of our foreign relations, that there has been, and perhaps there will always be, a certain degree of rivalry or friction between the legislative and executive branches; and if you go back over the history of our foreign relations, I think you will note that upon occasions the pendulum swings toward giving the Executive more power, or conceding that he is exercising a power not at first contemplated, and later the pendulum swings back and the Congress recovers its appropriate and constitutional control over the foreign relations of the United States. I have become philosophical enough to not be terribly disturbed by frictions, the recurring frictions between the several branches of our Government.

These frictions indicate a jealousy on the part of one branch to protect its prerogatives against encroachment from the other; it is a healthy sign. At any rate we shall have them always, and I am confident that, if we keep our heads upon our shoulders, the pendulum is never going to swing too far in either direction. I hope to Heaven that it never does.

What I had hoped for, and I am sure you have too, is cooperation between the executive and legislative in the matter of the management of foreign relations of the United States. We cannot deny that the President is authorized and directed, under the Constitution, to conduct negotiations with foreign powers. Consequently, he is in a position to possess far more reliable information than we Members of the Congress can possess at the outset of the negotiations. That being the case, the recommendation of the Chief Executive, from time to time, should be listened to in order that the Congress may have the benefit of the information which he has gathered. And I think, under the spirit of our Constitution, it is the duty of the Executive to cooperate with the legislative branch, as well as it is the duty of the legislative branch to cooperate with him forgetting all partisan differences.

Just a moment more on this question of sanctions. May I make this observation: The exercise of sanctions by Executive decree flies straight in the face of our theory of government. I think it would be very, very dangerous in the long run. More than that, may I remind you, Mr. Chairman, that we are not a homogeneous people; we come from many national origins. We are a heterogeneous people. As a result of our make-up in that respect, it takes longer for our public sentiment to crystallize on a foreign question. As you all know, there are groups of people in this country, splendid American citizens, who, in the first instance, are disposed to be sympathetic with some other nation, and until the situation is crystallized strongly, and public opinion is welded, it would be a dangerous thing for the President to attempt to employ sanctions. He might employ them in the wrong way, with distressing results.

And again speaking without the slightest thought as to who occupies the White House, it seems to me that the power to proclaim sanctions or embargoes is a power which the President of the United States should dread to possess. I think he, as the Chief Executive of the Nation, would find himself in an exceedingly uncomfortable posi-

tion. Consider the pulling and hauling he would be subjected to. Consider the visits of delegations to the White House and to the offices of members of the Senate and House, some pulling one way, others pulling in exactly the opposite way. Consider the confusion and bitterness. Might it not impair the Executive power itself? Such a result would be terribly unfortunate, for the world, noting our disagreements, would despise us.

So much for the proposals which we have heard that the Executive be empowered to impose sanctions.

Now, may I refer to the existing law which is under discussion? It is probably no news to you that I voted and spoke against this bill when it was before the House 2 years ago. I do not mention that fact in the confident belief that I was right, and that the bill was all wrong, but merely to indicate that what opinions I had then are still held by me now.

There are two or three minor matters in this law which I do not think, to be perfectly frank, are worthy of very serious consideration, and I shall not spend any length of time on them, but merely mention them.

For example, section 9 of the law relating to Americans traveling on belligerent vessels. I can see that, by forbidding or restraining, there might be less risk of inflaming public sentiment to a degree unjustified by the event. However, I do not think we should make it a crime for an American citizen to travel on a belligerent vessel. I think that is going pretty far. Americans must, many of them, travel all over the world in peace and war, on perfectly legitimate errands, and the time might come when an American in India would feel compelled, perhaps, for family or business reasons, to travel on a belligerent ship from India to some other point on the surface of the earth. I do not believe he should be sent to jail for doing that. I do think, however, if we care to keep that clause, it would suffice to serve notice, in the law, that American citizens traveling on belligerent merchant vessels do so at their own risk.

I next refer to section 3, which might be termed the Johnson Act. That is the section which forbids any person or corporation in the United States to lend money to a belligerent. That too, I assume, was inserted in 1937 in an effort to allay the suspicions of a body of our people concerning the motives of some of our people in purchasing securities of belligerents or, in other words, lending money to them. I place that in the same category as section 9, which I have just discussed. I think it is not vital, but might be retained.

Mr. JOHNSON. I think the suggestion that you make with reference to Americans traveling on belligerent ships—the original act passed August 31, 1935, on that feature of the bill, provided that citizens of the United States who travel on belligerent ships did so at their own risk, without any penalty. That was amending the act of 1937, when it was made unlawful and a penalty imposed. In other words, your idea is that the provision in the original Act of 1935 would not be objectionable?

Mr. WADSWORTH. Not to me, sir.

Mr. SHANLEY. He should get his protection from the flag under which he is sailing.

Mr. WADSWORTH. He should make his journey under notice that he does it on his own responsibility. I think that is sufficient. But



mind you, Mr. Chairman and gentlemen, I do not think that particular provision is vital. It may be useful.

Mr. JOHNSON. You would say he could travel on a belligerent ship; that he could do so, without recourse on us?

Mr. WADSWORTH. Yes; at his own risk. The provisions in this bill relating to the establishment of a munitions board, I think are rather wise to keep, because it is convenient to the Government to have registered the manufacturers of munitions. It enables the Government to keep track of what is going on. The Government can see to it that they operate decently, there is a record kept, and that very record might be very useful to us; and so I would not urge the abandonment of that feature.

There may be one or two other little things here that might remain, but which I do not think are important enough to discuss at this time. I now come to the two provisions of this act which I regard as vital. They are found in section 1 and section 2.

Section 1 is permanent law; presumably it proposes or does more than proposes, it provides that on the outbreak of war between two or more foreign nations, automatically an embargo shall be laid against the exportation of arms and munitions and implements of war to any of the belligerents. I say "automatically," because we have a right to expect the President to declare that a state of war exists. It has been done in two instances: In the Ethiopian incident and the Spanish civil-war incident. I have contended, for 2 years, that that provision constitutes an open invitation to the more powerful nations of the earth—perhaps not an invitation, but encouragement—open encouragement to the more powerful nations of the earth to attack the lesser powers. Almost invariably, the so-called aggressor nation is armed to the teeth, and possesses industrial organizations which can keep him armed to the teeth; he does not have to come here and buy munitions from us; he has his own. It is the smaller and much more peacefully inclined nation which is not armed to the teeth, nor does he possess an industrial organization which can keep him supplied after he has been attacked.

I beg of you, Mr. Chairman and gentlemen, to regard this act not merely—to measure this act not merely by our experience in the World War, not merely by certain events that are going on in the world today, but to measure it, by and large, by what we can anticipate in the future, judging from the past. It is a long time since it happened, but, nevertheless, we can have our ideas about it. For one, I am very glad that such a provision as this was not in the law of France, or any other country, when Washington was trying to win our independence. If that had been the law of Europe in 1777, the poor, little, struggling colonies, without arms, without industrial organization, would have fared badly in their struggle for independence. Europe smiling smugly would have watched our ancestors suffer in their struggle for liberty. I do not want to see a great people and the great Government of the United States ever adopt an attitude like that. It would be shameful.

It strikes me that this thing is brutally unneutral in its effect; it penalizes the little fellow, and does it deliberately. It is an announcement from the Government of the United States that the small may perish, and only the large and powerful may survive. As a policy it is indefensible, for it is grossly unneutral in its effect.

Suppose this thing were on the statute books when a major war broke out, and it was found that our policy was aiding the aggressor and the powerful at the expense of the little fellow, how long do you suppose the American people would stand it? Unless I am very much mistaken, they would rise up and demand the repeal of this thing as a matter of common justice. But having repealed it after the foreign war starts, you will have changed the rules of the game after the game has started. You have done an unneutral thing. There is the danger to our security and peace. If we are forced by our own public sentiment and our sense of decency to repeal this thing, after two nations have gone to war, obviously we shall be doing it to the advantage comparatively of one of them, and the disadvantage comparatively of the other. We have changed the rules of the game in the sixth inning; and when you have done that, you have done an unneutral thing, which might, the next day, plunge us into war; whereas, if we eliminate this thing from our statute books and refrain from adopting any such policy, what is the situation then, when two nations are at war? We maintain absolute freedom of action.

MR. EATON. Absolute neutrality, in other words?

MR. WADSWORTH. Neutrality and freedom to thereafter be unneutral, if we are vitally menaced.

MR. RICHARDS. We could do that by the repeal of this act?

MR. WADSWORTH. Yes; but what I fear is that we will be compelled to repeal this act long before our vital interests are menaced. We would be compelled to repeal it out of a sense of decency, in response to the sentiments of our own people.

MR. BLOOM. Suppose the Congress were not in session then?

MR. WADSWORTH. It could and would be called in session. I hope we shall never run up against that proposition. It will not keep us out of war; it is more apt to get us into a lot of trouble. It is impossible, in my humble judgment, for us to write a rigid rule of conduct that will govern us in the face of coming events. Coming events may be of an infinite variety.

No two wars start from the same origins, and no two wars proceed in exactly the same way, step by step, in their developments. If we write a rule, such as the rule contained in section 1, to govern our conduct rigidly, we will find, in 9 cases out of 10, unless I am very much mistaken, that shortly after the event occurs, the rule is hopelessly out of date. We will be implored to change it, or withdraw it entirely, and the instant you do so, you have done an unneutral thing. You have offended at least one of the parties in the contest and brought us just that much nearer war. Without such a rule, we can fall back on the rights of neutrals under international law, the thing we fought for in 1812, which we have maintained time and time again in the face of the world. Sometimes it is referred to as the freedom of the seas, the right of American ships to sail the high seas, the right to trade with neutrals and belligerents, always qualified by the situation which may arise, known as an effective blockade, set up by one belligerent against another. With the setting up of an effective blockade, of course, our merchant vessels would have to take their chance in trying to run the blockade. We have, ourselves, set up a blockade and imposed just such rules. We did it in the War between the States.

Mr. SHANLEY. How would you handle contraband.

Mr. WADSWORTH. I think you cannot do it in advance.

Mr. SHANLEY. I am not saying you can, but how would you do it?

Mr. WADSWORTH. Congressman, I do not see how anyone can answer that question. What I am pleading for is that we handle contraband in the way that we think is best for us when conditions arise, always maintaining freedom of action. Do not tie our hands in advance. Keep our eyes on the goal, and the goal is the safety of the United States and her people; and if I were to try to express an opinion as to what should be contraband and what should not be, my opinion would not be worth anything a year from now, and perhaps not worth anything tonight.

Mr. SHANLEY. Is not that the province of the Executive? All of our arguments on contraband have been communicated to the Executive.

Mr. WADSWORTH. I think that is the province of the Executive, with the cooperation of Congress.

Mr. SHANLEY. For instance, in the World War, when we were arguing about the shipment of arms and munitions, which we had a legal right to do, there was a feeling that if we had been more insistent upon the violation by the British of our mail steamers, and so on, we could have gotten a better deal. That was before the Executive, and the only time it came before us was on the Gore bill, to keep Americans off of British ships. That would be the only opportunity for the President to come to Congress. Everybody knows that your background on the question of travel, whether it is contraband or not, has to be worked out by a principle that is so delicate and intricate that it is beyond congressional action, and in almost a variegated pattern to the President must be worked out.

Mr. WADSWORTH. The President, in a case of that sort, must take the leadership. There are ways of taking the leadership. There are ways of securing cooperation. Perhaps the proposal made by the leader—remember, I am speaking impersonally—might be modified by suggestions emanating from Congress. I do not think you can divorce the Congress from all responsibility in this matter. As you have observed, the President does his best to get the definition of contraband modified, if occasion demands. In such circumstances it strikes me that it is the proper function of the Executive to consult the Congress in making his final recommendations: tell the Congress the story, as he sees it, and then let the two act in cooperation.

Mr. SCHIFFLER. May I ask you, Senator, if you agree with Professor Borchard, of Yale, who testified before this committee that we were better off having no neutrality law whatsoever, but, if we were insisting on having a law, to make it as sensible as possible?

Mr. WADSWORTH. I certainly do. I have indicated certain features in this present law which are not of vital importance but might be allowed to remain on the statute books. But I am asking you to consider what would be the effect of this embargo provision in section 1 if a war broke out in Europe. You may remember there was some publicity recently concerning the purchase by the French and British of several hundred airplanes in this country. They are now under contract and are being manufactured. I believe that the contract was legal and that they have a perfect right to

purchase them. Should war break out, automatically those contracts are canceled.

Mr. SHANLEY. And would they pay for those planes in cash as they would pay for any other commodities?

Mr. WADSWORTH. Yes; I agree to that, but that is not the point I want to emphasize.

Mr. SHANLEY. That is under this act?

Mr. WADSWORTH. Yes.

Mr. SHANLEY. The President has to find there is a war.

Mr. WADSWORTH. I assume, if a war breaks out in Europe, the President will have to say there is a war.

Mr. SHANLEY. That is a diplomatic finding, and, so far as the Japanese-Chinese war is concerned, there is not a diplomatic word from the Executive on the subject.

I want to insert, at this point, for your reaction, this statement from the Curtis-Wright case, which many of us think goes very far.

When the President is to be authorized by legislation to act in respect of the situation in foreign territory, the legislature properly bears in mind, from other Presidential action or ideas, whether he shall act, at all, which way may well depend upon other things and upon confidential information which he has, or may thereafter receive, or upon the effect it may have upon our foreign relations.

In other words, he has that power, which this act gives him, when the President shall find that there exists a war, he has still to either define his proclamation or not. Professor Borchard is very much worried about it. This opinion was written by Justice Sutherland, who wrote a book on foreign affairs right after the war.

Now, in your opinion, is that a salutary thing, at this time?

Mr. WADSWORTH. Well, as applied to this act, no. I will have to remind you that I am not a lawyer.

Mr. SHANLEY. But there are implications—

Mr. WADSWORTH. The implication that I got from your reading it, if applied to this act, means that section 1 leaves everything in the discretion of the President—

Mr. SHANLEY. Absolutely.

Mr. WADSWORTH. I do not think Congress or the country expects that. I think Congress was realistic when it wrote that phrase, "Whenever the President shall find there is a state of war." I think it is our duty, as members of the legislative branch, to look at that phrase realistically and not rely, perhaps hopefully, upon that opinion which you have just read, which by implication says that such a finding would be a diplomatic finding.

Mr. SHANLEY. Is there a constitutional basis for the President's action?

Mr. WADSWORTH. I do not want to go on too long, Mr. Chairman.

Mr. BLOOM. I wish to say for the benefit of the committee and the witness that permission is given by the House to sit during the sessions of the House for the balance of the week, and we will be notified immediately if anything important comes up on the floor.

Mr. JOHNSON. Mr. Chairman, I want to ask Mr. Wadsworth this question: As I understand, if you were given the power to write a law, today with this question in it, you would repeal that portion of the existing neutrality law that prohibits—that authorizes the President or directs the President to prohibit the exportation of arms and munitions and implements of war? What about the remaining provision?

Mr. WADSWORTH. I said at the outset, that I do not mind them remaining in here, but I do not think they are vital.

Mr. JOHNSON. In other words, you would leave of the existing law the provisions for the Munitions Board.

Mr. WADSWORTH. That is a useful piece of machinery.

Mr. JOHNSON. You think probably that there should be a law that American citizens who travel on belligerent vessels should do so at their own risk. Do you think that will remove one of the irritating causes that might provoke war? Of course, we all agree that this question of war cannot be determined by legislation; that war is a state of mind, and when people become inflamed they are going to fight. The purpose of the neutrality law was to try to remove, if we could, some of the irritating causes that led to information and the state of mind that brings on war. Of course, that is what the philosophy was back of this present law, and these things were placed in here with reference to the credits, the question of selling, when we were involved in war, because of the credits we had made, and our international bankers had loaned money, and in order to collect the debts, they wanted it to be defeated; and so these various provisions were designed to try to meet a similar situation that might arise in case of another European war.

Mr. WADSWORTH. I think those two provisions you have just mentioned are designed to lessen some of the irritants, but they do not affect vitally the foreign policy of the United States.

Mr. VORYS. Mr. Wadsworth, you stated, I understand, that you would favor the repeal of the entire statute law of neutrality, with the exceptions you mentioned, with the idea that we would then go back to international law, the unwritten law of neutrality and the freedom of the seas?

Mr. WADSWORTH. Yes, sir,

Mr. VORYS. And would we then implement that international law of neutrality and the freedom of the seas by executive action and thus protect our commerce, when we concede that it was moving in accordance with the international, unwritten law?

Mr. WADSWORTH. You are speaking solely of executive action? Is your question framed that way?

Mr. VORYS. If we had no law, our Executive would proceed as he has? I do not mean our present President, but our future Presidents would, through the years, use our battleships and cruisers to implement the freedom of the seas as they saw it?

Mr. WADSWORTH. Just as we have done for 150 years, just as our Presidents have done. I do not recall an incident—there may have been some, but I do not recall them now—in which the President actually ordered the Navy into action, but our long succession of Presidents have been able to protect in the main the commerce of the United States under international law.

Mr. VORYS. We did that in Tripoli, without any declaration of war or anything else.

Mr. WADSWORTH. Yes; that was one instance, and another was the little French war in 1798.

Mr. VORYS. Would you favor making that sort of thing possible now, without any action by Congress? I have looked up to see whether or not the succeeding Congresses had to appropriate for those instances, or not, but would you be willing to simply leave the entire cause of war outstanding?

Mr. WADSWORTH. In the first place, I do not concede that is necessarily a cause of war; only in 1812 and 1917.

Mr. VORYS. It was then, was it?

Mr. WADSWORTH. I think so. I am willing to trust the Executives of the future as I trust them in retrospect for 150 years prior to 1917. I think our Executives, by and large, have had a proper sense of their enormous responsibility. I cannot believe that any Executive would deliberately plunge us into war under the guise of merely defining our position.

Mr. VORYS. That is not a question, really, is it? If we repeal our attempt at writing a neutrality law, an international law that we expect the Executive to enforce, we then leave him the terrible responsibility not only of deciding where he is to go, how he is going to enforce something, but of digging out Borchard and other tomes where the international law is found, and at a time when we know there is not any such thing? Do you want to leave it there, just dump it all in his lap as to what our policy shall be as to our commercial ships in times of emergency and what he is to do about it?

Mr. WADSWORTH. I would scarcely use the phrase "dumping it in his lap." I would put it where it has always been until this thing went on the statute books only 2 years ago.

Mr. FORD. Mr. Wadsworth, probably you have not come to this in your discussion, but I would like to hear your reaction to cash and carry.

Mr. WADSWORTH. Yes; I was coming to that. The cash and carry found in section 2, as you know, provides that when the President shall have issued a proclamation to the effect that a state of war exists and he thereafter makes up his mind that an embargo applied to goods which are not munitions, would enhance the peace and security and neutrality of the United States, he may issue a proclamation and forbid the exportation of such goods from the United States in American ships, and at the same time provide by official regulations to be made by him that foreign vessels may come here and purchase goods, pay for them, and take them away. That is the cash-and-carry provision. It expires on May 1 next, and the question of its reenactment will come before this committee and the Senate committee. Personally, I hope it is allowed to perish.

Mr. EATON. The cash-and-carry section?

Mr. WADSWORTH. Yes; the cash and carry section. Again, looking at the thing with a long view, does not that section again invite or encourage the strong powers to attack the weak? Let us get out of our minds, for the moment, this present situation in Europe and think about enacting a permanent law. Obviously, a nation with a large merchant marine and a navy strong enough to protect it will be the only nation that can come here and buy things and take them home. The small nation, with little or no merchant marine and no navy to protect what it has, cannot get here, at all. So, again, you are putting Uncle Sam in the position of sitting on this side of the Atlantic and on this side of the Pacific and saying to the rest of the world, "If you are big and strong and have the money, you can get all you want. If you are little and weak and have not the money, you're out of luck." That is what it does and it will be grossly unneutral in its effect. In all probability it would forbid the exportation of cotton, and of hides, and of steel forgings and textiles, semi-

manufactured products, and all food supplies, on the ground that, by doing so, our neutral position would be strengthened. I do not believe our public would stand for it for more than a few months, and that is why I fear that, in trying to write a rigid rule, such as this to govern our conduct in the face of unforeseen events, we shall get ourselves in a position where we shall have to break the rule, and in breaking the rule, we shall be coming close to an act of war.

Mr. FORD. In that connection, would you advocate that our ships take it to them and sell it to them on credit?

Mr. WADSWORTH. No; with the credit section left in, you would have covered the cash part of it.

Mr. FORD. Would you advocate sending our merchant marine into the trouble zones?

Mr. WADSWORTH. I would allow our merchant vessels, as they did for 150 years, to sail the high seas.

Mr. EATON. Taking any chance they wished to?

Mr. FORD. Would you give them any notice, or the owners of the ships notice like you would an American citizen, traveling on a belligerent ship, that they would be responsible?

Mr. WADSWORTH. No, sir; I would not give them any notice. I would not put them on notice.

Mr. RICHARDS. If a nation puts an embargo on anything we want to ship, and we refuse to obey that embargo, and they sink our ships, what would you do?

Mr. WADSWORTH. If they had an effective blockade, that is the fault of our ships. We did that in the War between the States, constantly.

Mr. FORD. Suppose they just had an embargo, without a blockade?

Mr. WADSWORTH. I assume an embargo against importation is equivalent to an attempted blockade against exportation. We should always maintain our freedom of action. We cannot write a rule that will meet every eventuality.

Mr. FORD. Will the so-called Pittman amendment bring us into war?

Mr. WADSWORTH. The Pittman bill, as I have read it——

Mr. BLOOM. The Pittman bill is an amendment to the original Pittman bill.

Mr. WADSWORTH. The one I am familiar with is the one that repeals section 1 entirely.

Mr. BARTON. It repealed section 1?

Mr. WADSWORTH. Repeals section 1 and then uses the cash-and-carry device as contained in section 2, to include in the cash-and-carry system the exportation of munitions as well as basic materials.

Mr. BLOOM. May I say, for the information of the committee, that the original Pittman bill had a time limit of 30 days, that the President must issue the proclamation within 30 days. The amendment to the Pittman bill, introduced by Senator Pittman, strikes out that part.

Mr. EATON. Thirty days for what?

Mr. BLOOM. That the President must issue the proclamation when a state of war, declared or undeclared, exists.

Mr. BARTON. Well, now, I just raise this question. Take Japan and China, they have not declared a state of war. Now, if our President declares there is a state of war, he has assumed the function

of the Chinese Government and the Japanese Government, has he not?

**Mr. BLOOM.** The mandatory part of the original Pittman bill stated that the President must or shall issue a proclamation within 80 days. That has been taken care of and stricken out of the original bill in the amendment filed by Senator Pittman.

**Mr. SCHIFFLER.** Including the concurrent resolution by Congress, also. That is H. R. 7575. Now, supposing the aggressor nation attacks a nation like France, for instance, with whom we have friendly ties, what would you do in that kind of situation, when there is an understanding that our supply of arms and munitions, which we would have a right to sell to them, will work to the detriment of the aggressor nation?

**Mr. WADSWORTH.** If the act were off of the books, we could sell to France.

**Mr. SCHIFFLER.** But our people begin to realize that the sale of these munitions to this powerful aggressor nation which they can get, is working to the detriment of France, what are we going to do? Suppose powerful American public opinion demands that the Congress enact legislation to embargo shipment of arms to France, are we not changing the rules of the game again; would that not be unneutral?

**Mr. WADSWORTH.** Yes; if this law is repealed, we could, if we desired, do an unneutral act as between two countries we found at war, but I assume we would do that only because we were determined to prevent either one of them injuring us vitally. We would do it with our eyes open; our unneutral act might be followed by war, a war on our part against them. We might find ourselves in a situation where we were menaced so dangerously that we would do an unneutral act and face the consequences.

**Mr. SCHIFFLER.** I think you also stated or stressed the fact that humanitarian motives might be so strong in this country that we could not stand by and allow the powerful aggressor nation to take advantage of our laws, without taking some action.

**Mr. WADSWORTH.** I can hardly agree with you there.

**Mr. SCHIFFLER.** That would not prevent the American people from arising and telling us we ought to do something, would it?

Humanitarian principle has no purpose at all in our legislation. You may change your neutrality any time you want to, whenever vital interests are affected. We must take advantage of the humanitarian surge of our people. We do not want to see these aggressor nations take advantage of our law.

**Mr. WADSWORTH.** There is the whole situation. We must preserve our freedom of action, and if the American people come overwhelmingly to such a conclusion, all right.

**Mr. SCHIFFLER.** Even though one might be unneutral and changing the rules of the game in the seventh inning?

**Mr. WADSWORTH.** Yes; but with this thing on the statute book, we have adopted our rule before we know what the game is. Later we may be compelled to suspend the rule or repeal it, without any intention of going to war, but the repeal of it may drag us into war.

**Mr. BLOOM.** You believe then in repealing sections 1 and 2?



Mr. WADSWORTH. Yes, sir; sections 1 and 2. I have just one sentence or two and I will stop, Mr. Chairman.

Mr. BLOOM. You have plenty of time, if you want it.

Mr. WADSWORTH. I regard it as dangerous, fundamentally. Laying down rigid rules operates to deprive the Government of that freedom of action which is so essential to our security. It ties the hands of the Government, and in doing so creates the impression, widespread, that we need not be respected.

The President or Secretary of State may express the hopes and desires of our people, but the foreigner smiles with satisfaction in the knowledge that by our own laws we have surrendered freedom of action.

Thus, I cannot escape the conviction that our so-called neutrality policy, which has already proved unneutral, is both unsound and dangerous.

Frankly, I have hoped for months that section 1 of the Neutrality Act, which is permanent legislation, would be repealed, and section 2, with its cash-and-carry provision, shall not be reenacted; and, Mr. Chairman, may I further venture to express an opinion that is entirely personal, that with section 1 repealed and section 2 abandoned, there will be less danger of war in Europe.

Mr. BARTON. Mr. Chairman, may I ask one question?

Mr. BLOOM. Mr. Barton.

Mr. BARTON. Is it your opinion, that when we are discussing section 1 and section 2 we are really talking unrealistically? Let me explain what I mean. Suppose that we should adjourn here on June 1, with section 1 still on the statute books. Suppose that, on the 2d of June, over the 80,000,000 radios in this country, we should hear a broadcast of the bombing of London and the fall of Westminster Abbey; and St. Paul's Cathedral, and the screams of women and children, as we would hear them. Do you not suppose the President would call us back here in 24 hours and ask us to repeal section 1?

Mr. WADSWORTH. The pressure on him to do so, I suppose, would be almost irresistible.

Mr. BLOOM. Would that be considered an unneutral act?

Mr. WADSWORTH. Yes; certainly—

Mr. VORYS. Is there any question in your mind but what the cash-and-carry principle, which would favor the so-called democracies in Europe at the present time, and which is on the books now and which would work to the disadvantage of the axis powers—is there any question in your mind but what that represents the overwhelming present sentiment of our people, as far as Europe is concerned, and the only thing that embarrasses us is the effect that it has in the Orient?

Mr. WADSWORTH. Without answering that question—that is a pretty hard question to answer “yes” or “no”—I should so much prefer, Mr. Congressman, not to have that law on our books, because it is deliberately designed to favor one person as against another. I admit that, in the case you cite, the cash and carry would favor one group as against the other. That is the truth.

Mr. VORYS. That is right.

Mr. WADSWORTH. That is the truth, but I hope we do not pass such laws. I think they are unneutral.

Mr. EATON. Let us go on with our imagination and suppose that the totalitarians, in turn, launched a war and win it, then they could come over here, having command of the seas and command of the world, and purchase anything they pleased, while they were mopping up the rest of mankind.

Mr. WADSWORTH. If this law were still upon the statute books, they could and would do it to their own advantage.

Mr. SCHIFFLER. I do not know whether I correctly got your statement, or not, but is it your opinion that the repeal of section 1 and the failure to reenact section 2 of this bill, would have a discouraging effect on this European war?

Mr. WADSWORTH. I think it would be effective.

Mr. SCHIFFLER. Then its abolition would have a tendency to create peace?

Mr. WADSWORTH. Anything that deters war is something in behalf of peace.

Mr. KNE. Do you think it possible for us to write any neutrality statute into our law books that would be more dangerous to us than for us to simply go back and follow the rules of international law, as we have before?

Mr. WADSWORTH. I feel that way, sir.

Mr. JOHNSON. We have been talking about the law, the neutrality law helping the strong and punishing the weak. Is it not true that, even without any neutrality law—it is true that one nation is more fortunately situated than another and you can hardly pass a law but what one side or the other is helped or hurt; and we cannot pass any neutrality law that does not inure, at different times, to the benefit of one nation or another; and is it not true, largely, that the people who have sympathies with one country or another want the law changed, to meet the changed conditions which relate to the side with which they are in sympathy?

Mr. WADSWORTH. That is true. That is one very impelling reason for not having the law.

Mr. BLOOM. Now, for 14 years, when nations respected treaties and when—

Mr. WADSWORTH. You are optimistic, Mr. Bloom.

Mr. BLOOM. We will say they did, when promises were supposed to be kept and no neutrality laws were on the statute books, or enacted, we got along pretty well all that time without any neutrality law and took care of ourselves. Do you not think we could go ahead at this time, when the world is upset, with no respect for treaties or pledges—that it is rather dangerous to put our cards on the table face up and let them know what we intend doing, and we must play the cards with the face up, and that would get us into more difficulties by doing it that way than if we had no neutrality laws at all?

Mr. WADSWORTH. I am convinced of that.

Mr. BLOOM. Any further questions?

Mr. EATON. I think we ought to express our thanks to the Senator.

Mr. WADSWORTH. I appreciate the opportunity of coming, Mr. Chairman.

Mr. VORYS. Do we have other Members of Congress who are to appear before us today?

Mr. BLOOM. They are asked to come back tomorrow morning, because the House has the housing bill that we are interested in.

Mr. VORYS. Would it be possible to suspend until tomorrow morning, after we finish with the Members of Congress?

Mr. BLOOM. Yes; if it is the wish of the committee to do so, I will be very glad to put the motion that way. I understand Mr. Voorhis wishes to be heard at this time.

(Thereupon, the committee proceeded to the consideration of H. R. 4232; see p. 627.)

### STATEMENT OF HON. JERRY VOORHIS, REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. VOORHIS. Mr. Chairman and gentlemen of the committee, I want to say, by way of preface, that the question of American neutrality will eventually be decided by the degree to which there is a determination on the part of the American people to remain neutral or not, and to what extent that determination is going to be carried; and I agree, without that determination, the legislation may be of little effect, but assuming that determination, when I think it may be of considerable effect.

Now, my bill is here, and its whole purpose is what is best from the standpoint of this country. There are two points of view that I think we have got to take cognizance of. In the first place, there is the general point of view that we want to keep this Nation at peace; and, in the second place, there is a natural feeling on the part of a great many people in this country which I think may be fairly described as resentment against certain acts of violence and aggression that take place from time to time in the world. I think that is accentuated by the fact that Americans sometimes feel that certain things that happen, whether or not they be in accordance with legislation which the Congress has passed, have the practical effect of assisting those actions of aggression. Specifically, I mean we hear a great deal about the fact that our shipments of materials of various kinds to various ports make it easy for Japan to do the things that she does in China.

Now, I believe that, unless there are some means provided whereby the people of America can feel that they are at least not aiding and abetting those acts of violence, then you are going to have a continuance of that psychology of the American people, which is going to build up, over a period of time, a war psychology and my bill is aimed to, if possible, prevent that from happening.

To my mind, the worst thing that has developed in modern warfare is the bombing of civilian populations from the air. I think it has been said by a great many military people that it serves no real military objective; that it merely is a matter of trying to break the morale of the nation against which these actions are committed. And so it occurred to me that, if America could do some practical thing against that practice, it would go a long way toward making our own people feel that they were making a contribution to decency in human

relations and working against barbarism. In other words, it might be effective in answering the second difficulty that I presented in the beginning, namely, the proposition of Americans feeling more and more that they are contributing something to this carnage under present circumstances.

I agree with those people who have said this morning that they think it is very dangerous for a nation to try to name the aggressor. That is true. We are likely to do an injustice, and I think in any case, we are on dangerous ground whenever we start to do it. But it is a much simpler, more factual matter to determine that one nation has sent its airplanes over the cities of another nation and dropped bombs on it. My bill provides, wherever that has taken place, there shall be an embargo on the shipments of the implements of war to the nation that is guilty of that practice.

Mr. EATON. That means the aggressor nation?

Mr. VOORHIS. Not necessarily. That merely means that the United States does not want to be a party to that practice. It does not mean this particular nation started the war, at all. We may not have found out that one is a "bad" nation and the other is a "good" one. All we say is that they are doing a certain thing that we do not approve of. Therefore, we say to them, "We can't sell you any more implements."

In other words, we propose to tell the other nations to carry on their own wars, and we propose to say that there is a certain limit to which they can go, and "If you go by that, the United States is going to try to see to it that her goods do not help you do it." The advantages of this seems to me to be that it does, in the first place, enable the United States to deal effectively with what would usually be the aggressor nation; secondly, that it avoids the necessity of determining or attempting to declare the aggressor; and third, it provides at least some way of indicating the natural feeling of moral indignation which Americans feel from time to time, out of which a war situation is likely to be built.

Mr. BLOOM. Mr. Voorhis, if they did it against one nation, could not that nation consider it as an unneutral act?

Mr. VOORHIS. I suppose it could.

Mr. BLOOM. What do you say the condition is, the kind of thing that is going to get us into war?

Mr. VOORHIS. Mr. Chairman, may I say that, except in unusual circumstances, a bill of this kind would be likely, in the course of time, to apply to both sides, but it would apply to both sides only insofar as both sides have done specific things.

Mr. JOHNSON. I think the gentleman is right in saying that aerial bombing of civilian populations is not civilized; that it is more like the Indians used to do. We have said that civilized man will not engage in these practices, and I think it is indefensible.

Mr. VOORHIS. I think it is much worse than the Indians.

Mr. BARTON. Would it not put us into the position of attempting to write into the rules new international warfare rules?

Mr. VOORHIS. No; all we have here is that the United States has certain facts that produce a certain story, and it is notice to the rest of the country, to the rest of the world, of what we propose to do.

Mr. SHANLEY. Suppose they establish a branch in Canada and other places, the effect of it will be that they can sell anyway. What would you do then?

Mr. VOORHIS. I do not know what you could do.

Mr. SHANLEY. If you had an international agreement, like there was about poisoning wells, it would be perfect, but unless we can get an outlawing of these instrumentalities, are you not penalizing our manufacturers by attempting to do that?

Mr. VOORHIS. Yes; I realize that, but for some reason that has never impressed me. I cannot understand yet why it is a good idea, from the national-defense standpoint, to mine a lot of iron and put it into munitions of war and send it to somebody else, unless we have already irrevocably decided that somebody else is going to be an ally in war. Otherwise, I do not see why you should export munitions of war, and for that reason I think this bill is consistent.

Mr. BLOOM. Have you given any thought to section 1 and section 2 of the present act?

Mr. VOORHIS. Yes.

Mr. BLOOM. What do you think of that? Do you think they should be repealed?

Mr. VOORHIS. Well, I think that is as Mr. Shanley brought out in the discussion with Mr. Wadsworth. It seems to me it is six of one and half a dozen of the other. In other words, it is true, I believe, as Mr. Wadsworth said, where you might have a condition when the country would demand the repeal of the law, under certain particular circumstances. I think it is equally true, if you did not have the law the country might well demand the enactment of the law under certain particular circumstances. It seems to me, if we are really determined to remain out of war, the Neutrality Act is a pretty fair instrumentality to hold on to for a while.

Mr. EATON. Mr. Chairman.

Mr. BLOOM. Dr. Eaton.

Mr. EATON. Mr. Chairman, I am in full sympathy with Mr. Voorhis, as we are all, on the bombing of civilians. But in your bill you propose, if that happens, to embargo everything against those people?

Mr. VOORHIS. No; the implements of war, Mr. Eaton.

Mr. EATON. You would not embargo anything else against them, or everything against them?

Mr. VOORHIS. No; because I am not of the opinion that an attempt to embargo all manner of products against a nation is substantially different from going to war with that nation. I think that embargoing implements of war is a somewhat different proposition from the idea of embargoing foodstuffs; and as a perfectly practical matter, if the nation involved happened to be an important customer of the United States, I think you might get away with this, and I do not think you could get away with the other. If you had been able to get away with the other, I think we would have had an embargo against Japan long since, and I do not think the reason we have not an embargo against Japan is because of anything the President has done, but I think it is because our trade with Japan is very profitable, and this has been the thing standing in the way.

Mr. EATON. I am afraid your moral indignation is cooling off.

Mr. VOORHIS. No, it is not; but if I can express my moral indignation 50 percent and get away with it I would rather do that than not express it at all.

Mr. BLOOM. You say there is six of one and half a dozen of another. If there is grave doubt, would you not stay on the safe side and say not have any neutrality law at all?

Mr. VOORHIS. I am not at all sure that is the safe side. I did not propose to come up here and talk to the committee about the whole question of neutrality.

Mr. BLOOM. I am just seeking to get your views.

Mr. VOORHIS. Yes; and I want to give them to you. When I said it was six of one and half a dozen of the other, I spoke purely of the danger of a war involving the United States.

Mr. BLOOM. Would you want to be half neutral?

Mr. VOORHIS. No, sir; but you asked me about section 1 and section 2, and they are either going to be kept or going to be repealed. I think, if they are kept, there is a chance that, under some circumstances, there are nations that might be hurt by it—nations that we like—and nations that we do not like might benefit by it, and that the country might, as Mr. Wadsworth suggests, rise up and demand its repeal.

I think, on the other hand, if that provision is repealed, and if we find that the absence of that legislation affects or regulates our trade and that we are benefiting the Nation we did not like and hurting the one that we did, that the people of America might rise up and say, "We insist upon the reenactment of this legislation."

Mr. BLOOM. Any further questions?

Mr. KEE. Mr. Voorhis, what is the difference between bombing civilian population from the air and bombing the same population by heavy guns? For instance, large cities have been made the headquarters for armies and—

Mr. VOORHIS. I think there is only a difference in degree, but I think the opportunity of defense against heavy guns is much greater.

Mr. VOYRS. Mr. Chairman, may I raise a question there?

Mr. BLOOM. Yes.

Mr. VOYRS. What Mr. Voorhis, my colleague, is aiming at here is this: That we have set up, as a definite military theory, the deliberate bombing of civilians, when there is no possible military objective, for the express purpose of trying to strike terror to the hearts of the civilian population and, therefore, it is different thing from anything we have ever had in modern warfare.

Mr. KEE. Those specific cases would have to be determined, because some cities are made the headquarters of armies, you know. For instance, an army being headquartered in a city, the opposing army bombs the city in every possible way, and, of course, the civilian population take the consequences.

Mr. VOYRS. May I ask Mr. Voorhis a question?

Mr. BLOOM. Yes.

Mr. VOYRS. Would you have any objection, in view of that suggestion, of simply writing in "Japan" instead of saying whenever somebody finds out something, and just simply write an embargo against Japan, when we all know that is the thing that you are aiming at? Just have an embargo against sending any more scrap iron

and munitions to Japan to be used for bombing defenseless civilian populations in China?

Mr. VOORHIS. Well, that is a different kind of approach, certainly, and if you are going to pass a law and say certain things are going to be against the law; and you will be able to know when a certain individual or nation has evaded it, and say that so and so, and name him, is to be punished for having done such and such a thing. I mean, if you pass a law to cover that kind of violation I think you could do it, and I think you could make it generally applicable.

Mr. VORYS. But not retroactive?

Mr. VOORHIS. No; we could not make it retroactive.

Mr. BLOOM. Any further questions? We thank you very much, Mr. Voorhis.

The committee will go into executive session for a few minutes.

Mr. STEARNS. Are you not going to get in just as much difficulty in trying to define the cases of bombing of civilians as you will over aggressor nations? Would that not be just as much difficulty, and would there not be just as much difficulty arise?

Mr. VOORHIS. I do not think there would be as much, and I do not think it is the same sort of thing.

(Thereupon the committee proceeded to executive session.)





## AMERICAN NEUTRALITY POLICY

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WEDNESDAY, APRIL 12, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met, pursuant to adjournment, at 10 a. m., Hon. Sol Bloom, acting chairman, presiding, for further consideration of various neutrality bills.

Mr. BLOOM. The committee will please come to order. Mr. Crawford, of Michigan.

### STATEMENT OF HON. FRED L. CRAWFORD, REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. CRAWFORD. Mr. Chairman and members of the committee, I desire to address my remarks to H. J. Res. 42, and H. R. 979, the first of which is before your committee, and the latter bill, H. R. 979, is before the Interstate and Foreign Commerce Committee of the House.

Mr. BLOOM. Your bill is H. J. Res. 42?

Mr. CRAWFORD. Yes.

Mr. JOHNSON. What is the number of it?

Mr. CRAWFORD. H. J. Res. 42. (See p. 621.)

Mr. JOHNSON. This is Fred L. Crawford of Michigan?

Mr. CRAWFORD. Yes, sir. H. J. Res. 42 provides for an embargo on scrap iron and pig iron under Public Resolution No. 27 of the Seventy-fifth Congress. It is very brief, but I shall not take the time of the committee to read it at this time.

Our people since the establishment of our civilization on this continent have been a trading people.

Mr. BLOOM. Would you mind an interruption there?

Mr. CRAWFORD. No, sir; not at all.

Mr. BLOOM. You say scrap iron and pig iron?

Mr. CRAWFORD. Yes, sir; scrap iron and pig iron.

Mr. BLOOM. Does that include junk?

Mr. CRAWFORD. Yes, sir; it does.

Mr. BLOOM. It has been stated before this committee that scrap iron is not junk. The scrap iron people and the tin people were here before the committee, and they testified that scrap iron is one thing and that junk is another thing, because the junk dealers wanted to know if that included them.

Mr. CRAWFORD. Well, perhaps, under H. Res. 979, which, as I say, has been referred to the Committee on Interstate and Foreign Com-

merce, the language is a little broader, where it refers to scrap iron, pig iron, and scrap steel.

Mr. BLOOM. I just wanted to bring that to your attention.

Mr. CRAWFORD. This is intended to be broad enough to cover everything which can be used in the production of steel, and I think, as I go ahead with my remarks, that will be brought out more fully.

As I say, our people since the establishment of civilization on this continent have been a trading people. It is my personal opinion that they will continue to trade in peacetime products not only internally, but externally as well. I am sure our ingenuity, persistence, and courage will find means whereby goods produced by our workers can, in one way or another, be exchanged for the products and services of the workers of other lands.

In addressing my remarks specifically to the question of exports of scrap iron, pig iron, and scrap steel, I desire to point out:

First, a relatively small number of our people are benefited by the exportation of scrap.

Second, the original owners of the scrap, the industry, or the individual whose article has served its usefulness and has returned to scrap, is benefited very slightly by a higher price for scrap.

Third, scrap is becoming more and more an important raw material in this country. Its exportation depletes our raw material sources, creates a shortage, and thereby increases the cost of domestic consumers.

That is what this proposal covers, anything that goes into the manufacture of steel, whether junk, scrap, scrap iron, scrap steel, or material similar thereto, is intended to be covered.

Few realize how consistently the price of finished steel in this country follows the price of scrap. This will become more and more the case as scrap increases in its use as a raw material for the manufacture of steel. It now supplies about 60 percent of the raw material; iron ore and pig iron supplying the balance. As evidence of this close relationship, I submit a chart comparing the finished-steel prices and scrap prices for the past 28 years. The ordinary trade-paper quotations of scrap are made in dollars per gross ton, while the finished-steel prices are made in cents per hundredweight. On account of this different unit, one does not readily see the direct comparison.

In the chart the finished-steel prices have been changed from cents per hundredweight to dollars per ton. We have left the finished-steel curve in dollars per net ton, while the curve for scrap is in dollars per gross ton. This difference in unit is, we believe, justified on the approximation that a gross ton of scrap is required to produce a net ton of finished product.

The curve representing scrap prices is the yearly average of the Pittsburgh, Chicago, and Philadelphia quotations of No. 1 heavy melting steel. The curve representing finished steel prices is the yearly average of the composite steel prices made up of steel bars, shapes, plates, plain wire, open-hearth rails, black pipe, and black sheets. The figures for both curves were taken from the January 5, 1939, issue of the Iron Age.

Ignoring the smaller fluctuations, we find that, without exception, the price of finished steel has followed the price of scrap iron and

in every instance a decline in the price of scrap has produced a greater decline in the price of finished steel.

I am now talking about steel products which go into your manufactured products or agricultural implements, together with all the other fields of steel products whatever they may be, in rough, finished, high-class material or otherwise.

Specifically, the decline from 1903 to 1914 was, scrap, \$6.84 per gross ton, and finished steel \$7.80 per net ton. The advance from 1914 to 1917 was, on scrap, \$18.88 per gross ton, and finished steel, \$55.20 per net ton. Then there was a decline from 1917 to 1921, on scrap, \$16.58 per gross ton, and finished steel, \$41.40 per net ton. From the 1921-22 period to 1923 scrap advanced \$6.44 per gross ton, and finished steel \$11.60 per net ton. Then from 1923 to 1932, scrap declined \$11.51 per gross ton, and finished steel \$16.20 per net ton.

Then, from the 1932-33 period up to 1937, scrap advanced \$10.49 per gross ton, and finished steel advanced \$12.60 per net ton.

These figures are conclusive evidence that the price of finished steel products is closely related to the price of scrap and that the finished steel price advances or declines more than the advance or decline in the price of scrap. Relatively low-priced scrap or at least stability in the price of scrap is something then in which every individual in this country should be tremendously interested. As against the relatively few who benefit from the exportation of scrap, we have the entire mass of our population who pays the bill in higher prices for finished steel.

During the 25-year period covered by the chart, there have been three major advances, the largest being the 1914 to 1917 war period when demand for scrap in this country increased the price. During that period, our country was exporting finished product and not scrap. Industry and labor in this country got the benefit of the advanced price. The \$10.49 per ton advance from 1932 to 1937 is the second largest advance, being considerably greater than the \$6.44 per ton advance beginning in 1921, and, with the one exception, being much greater than any other advances in the scrap market during the 25-year period.

I submit a table showing the exports of scrap in gross tons from the United States since the year 1924. Prior to that time, the exports were negligible.

In 1924 we exported 97,748 tons; the following year, 1925, 82,573 tons; in 1926 we exported 104,573 tons; in 1927 we exported 239,209 tons; in 1928 we exported 516,148 tons; in 1929 we exported 557,040 tons; in 1930 we exported 358,649 tons; in 1931 we exported 136,125 tons; in 1932 we exported 227,522 tons; in 1933 we exported 773,406 tons; in 1934 we exported 1,835,170 tons; in 1935 we exported 2,044,506 tons; in 1936<sup>1</sup> we exported 1,877,136 tons; and in 1937<sup>1</sup> we exported 4,039,000 tons.

The increase in exportation since 1932 has been by far the most rapid and extensive in our entire history. I am convinced that this fact is largely responsible for the rapid increase in the price of scrap from 1932 to 1937, which, as we have already seen, resulted in an even greater increase in the price of finished steel in this country, and this question goes to the heart of the price of steel commodities about which there was so much said on the floor of the Senate yesterday

<sup>1</sup> See p. 637.

afternoon, and about which we have heard so much in special messages to the Congress in recent months.

By reason of rates of exchange, low-labor rates, plus war scares that create heavy demands for raw materials and steel production, certain foreign countries have been paying extremely high prices for scrap here and are creating this artificial market for this large proportion of our total collection of scrap. The exportation of scrap in 1937 was 20 percent of the total assembled by the scrap industry in this country.

The Japanese production and scrap import figures alone illustrate the point, and I submit the following figures taken from the United States Tariff Commission Report No. 128 on iron and steel.

(The table referred to is as follows:)

*Japanese steel production*

[Thousands long tons]

Year	Ingot production	Scrap imports all sources	Percent scrap imports to ingots	Scrap imports from United States	Percent United States imports to ingots	Percent United States imports to total imports
1929.....	1 2,267	474	21	213	9.4	44.5
1930.....	2,253	471	21	245	10.8	52
1931.....	1,820	282	15.5	53	1.8	11.7
1932.....	2,314	538	23.3	152	6.6	28.3
1933.....	3,078	989	32	447	14.6	45
1934.....	3,605	1,374	36	945	25.5	69
1935.....	4,523	1,649	36.5	1,305	29	82
1936.....	4,736	1,461	31	1,011	23.3	69
1937.....	5,380	2,263	42	1,863	34.7	82

<sup>1</sup> The above figures refer to thousands in every case except where percentages are given.

I will not read all of these figures, but I will hit some of the high spots. In 1934, Japan produced a total ingot production of 3,605,000 long tons, and the total scrap imports amounted to 1,374,000 tons, and you get the relationship there. The percentage of imports of scrap to ingots was 36 percent, with 945,000 tons from the United States.

In 1936, Japan produced 4,736,000 tons of ingot production, with 31 percent scrap imports to ingot, with 1,011,000 tons from the United States.

In 1937, Japan jumped production to 5,380,000 tons, with scrap imports from all sources of 2,263,000 tons with 42 percent scrap imports to ingots, of which 1,863,000 tons were from the United States, and your percent of United States imports to the total imports was 82 percent, and, as I say, these figures are from the United States Tariff Commission, Report No. 128, on iron and steel. Japanese scrap imports since 1934 have amounted to from 36 percent to 42 percent of ingot production. Her home scrap would amount to at least 30 percent of ingot production, making a total of over 70 percent scrap used, or a surplus of scrap accumulated. That is an illustration of what is going on in the Japanese steel industry.

Analyzing these figures, we see that in 1937 the United States supplied 1,863,000 tons, or 82 percent of all the scrap imported by Japan. During that year, they produced 5,380,000 tons of ingots, and im-

ported 2,263,000 tons of scrap. Any steel operation produces about 30 percent scrap which is again reused. Thirty percent of 5,380,000 tons is 1,610,000 tons. It might be said, then, that Japan's 1937 ingot production was achieved as follows:

	Tons
Scrap imported from the United States-----	1,863,000
Scrap imported from other sources-----	400,000
Scrap from their previous production-----	1,610,000
Pig iron or domestic scrap sources-----	1,507,000
Total-----	5,380,000

It is apparent from this to what extent raw materials from this country have become important to the production of steel in Japan.

Now, on that particular point, I wish to refer to the Department of Commerce bulletin which just reached my desk this morning, and to make this observation. Our Government economists lay our present economic slump largely to a case of war "jitters." The President and his Secretaries Hull and Ickes, as high-ranking Government authorities, have said a lot about dictator nations. To the same time, what cognizance has the Congress and these officers taken of the fact that we are supplying those dictators—Germany, Italy, and Japan—with vast supplies of scrap iron for building war horses on which to ride in their conquests of smaller nations?

Mr. BLOOM. Are you reading from the Department report?

Mr. CRAWFORD. No. Germany, Italy, and Japan were among the top purchasers of our scrap iron last year.

Mr. JOHNSON. You gave the figures with reference to exportation of scrap iron to Japan. Do we have the figures with reference to exportation to Germany and those other countries?

Mr. CRAWFORD. Yes; I will give those in just a minute.

Mr. JOHNSON. Did we export any amount of any consequence to China?

Mr. CRAWFORD. We exported 10,095 tons to China. Germany, Italy, and Japan were among the top purchasers of our scrap iron last year. They were not moulding our old junk into toy soldiers for use of children, but it is going into guns and other equipment to be placed into the hands of goose-stepping men, some of whom our own youth may be compelled to meet on the field of battle, if all this continues.

Now, listen to these figures:

In 1938, we shipped to Germany 230,903 tons of steel scrap, tin plate, waste, and waste tin plate.

Mr. JOHNSON. That is only about one-fourth of what we shipped to Japan.

Mr. CRAWFORD. In 1938, we shipped to Italy 437,025 gross tons, and in 1938 we shipped to Japan 1,381,901 tons, and in 1937 we shipped to Japan 1,904,768 tons. Those figures are taken from the February 8, 1939, statement of the Department of Commerce, which, as I say, just came to my desk this morning. Now, keep in mind that my resolution specifically ties itself to Public Resolution No. 27 of the Seventy-fifth Congress.

Mr. BLOOM. Would you mind an interruption there, Mr. Crawford?

Mr. CRAWFORD. No; not at all.

Mr. BLOOM. Of course, you did not include tin scrap in your resolution.

Mr. CRAWFORD. No; it is not mentioned there.

Mr. BLOOM. Now, if the present Neutrality Act should not be repealed, even if section 2 of the present Neutrality Act should not be extended, would we need a new resolution to cover what you are trying to cover?

Mr. CRAWFORD. The last two lines of this specifies:

declaring an embargo on the export of arms, ammunitions, or implements of war, he shall include scrap iron and pig iron in addition to those items enumerated in the President's proclamation, numbered 2163, of April 10, 1936.

Mr. BLOOM. Yes.

Mr. CRAWFORD. My interpretation of that particular proclamation is to the effect that it does not include scrap iron and pig iron.

Mr. BLOOM. For safety's sake you think that should be included?

Mr. CRAWFORD. Yes. I desire to make it very clear to the committee, Mr. Chairman, that if Resolution 27 should cease to function that that alters my position entirely on this whole question, at least to the extent that I somewhat appreciate the difficulties that the committee is up against and the Congress is up against and that the country is up against with reference to this question of neutrality. That is illustrated by this thought which I developed, or this thought which was developed with the group of men with whom I was discussing it last night. We have this simultaneous announcement which was made by our Secretary and the representative of the Bank of England and the Bank of France on September 25, 1936, at which time through that announcement we agreed to go along on a stabilization proposition, a stabilization of international exchange, which means a stabilization of trade conditions, and it means promoting trade, and I do not see any way on earth you could disassociate that type of agreement from the proposition of dealing with neutrality. In other words, we are tied in there, and it is my understanding that Congress will, within the next few days again, approve an extension of authority to keep tied in to the stabilization agreements in whatever form they have made them. Now, if that is to be the case, how can we segregate, or how can we be neutral, on these various propositions, on the one hand, in language such as included in Resolution 42 or 27, and go along on the other proposition stabilizing the exchange for France, Great Britain, and the gold bloc, our own country, and such other allies as we might have. So I can fully appreciate, and I do fully appreciate, the problems confronting the committee, and I desired to come here this morning and present my thoughts with respect to scrap iron and scrap steel, insofar as it relates to whatever neutrality program the Congress may decide to go along on. That is my object in being here this morning.

Mr. BLOOM. Are there any questions?

Mr. EATON. I would like to ask the witness why he skipped scrap tin.

Mr. BLOOM. That is what I asked.

Mr. CRAWFORD. There was no reason for skipping it at all.

Mr. EATON. Would you be willing to put it in?

Mr. CRAWFORD. Not only willing to but very anxious to include all of this scrap of whatever kind or nature which can be used directly or indirectly in the production of war munitions or war materials. It makes no difference to me what it is, if in this general class.

Mr. JOHNSON. Referring to the question asked by the gentleman from New Jersey, Dr. Eaton, let us find the reason why the neutrality law did not attempt to enumerate the items which constitute arms, ammunition, and implements of war. Because of the changing conditions in the world today one thing might be an implement of war today and tomorrow it might not be. So, all neutrality legislation which we passed, and the various acts, have not attempted to enumerate implements of war for the reason that they might fail to include something that might be a munition of war and therefore exclude or defeat the intention of Congress to cover those articles. The suggestion made by the gentleman from New Jersey and the questions asked here indicate why it is difficult to pass a law that will cover all of these things. Dr. Eaton asked Mr. Crawford about tin scrap, and the chairman asked about junk, and you will have to leave authority somewhere to enumerate what articles shall be excluded or specify what articles shall be included ———

Mr. CRAWFORD. I again refer the gentleman's attention to lines 7, 8, and 9 of my resolution:

he shall include scrap iron and pig iron in addition to those items enumerated in the President's proclamation, No. 2163, of April 10, 1930.

Mr. JOHNSON. But when you just put that in and not these others, that excludes the others.

Mr. CRAWFORD. No; these others are included, too. If they are not enumerated they are not included.

Mr. JOHNSON. When you fail to include you exclude them by inference.

Mr. BLOOM. Is it not a fact that even the League of Nations could not make a list of all of the munitions of war? It is impossible to speculate on that.

Mr. CRAWFORD. Yes.

Mr. BLOOM. Now, if you take the Constitution itself, it says in organizing certain departments of the Government you have a right to regulate post offices and post roads. Now, that includes everything.

Mr. CRAWFORD. That is right.

Mr. BLOOM. If you start to enumerate certain things and leave out other things you will be in just as bad a fix, perhaps, as you were before.

Mr. CRAWFORD. I am not enumerating anything, but if we are going to start out with enumerating, as far as I am personally concerned, I am speaking for this scrap iron and pig iron proposition, and want scrap, junk, and all, enumerated.

Mr. ALLEN. Mr. Chairman, may I ask a question?

Mr. BLOOM. Mr. Allen.

Mr. ALLEN. Mr. Crawford, aside from the neutrality features of your proposition, is it not true that any abnormal export market, such as our shipments of scrap iron abroad, from an economic standpoint, will cause the American people to suffer in both ways: First, in the loss of their natural resources; and secondly, through being compelled to pay higher prices which result from the greater demand for scrap iron.

Mr. CRAWFORD. Yes; all of our people have to pay for that.

Mr. ALLEN. All the people have to pay for that, and that, it seems to me, is a very important feature.

Mr. CRAWFORD. Yes. Just imagine the ridiculous situation we would be in if we got into a very active war-building program. We are simply short several million tons of scrap we would have had to move into our smelters. As it is, we have exported it on the basis of competitive price. There are millions of tons of scrap that have moved out since this question became a live issue.

Mr. ALLEN. In the meantime, our people have been paying an additional price for certain products.

Mr. CRAWFORD. To a point where it has contributed to our price disparity which now is so serious to all of our people.

Mr. SHANLEY. You are not against a boom per se, but a boom built up this way, because you think it interferes, building the totalitarian states in their drive—

Mr. CRAWFORD. When a commodity is so absolutely war material as this is, and where we make so much fuss about being neutral or against dictatorial powers, I think we should pay some attention to commodity flows of this volume and nature.

Mr. SHANLEY. Because of its implications, and as an immediate result of it, it opposes your ideology in this sense, and your position. Now, would you favor it as an all-time embargo?

Mr. CRAWFORD. This proposition?

Mr. SHANLEY. Yes.

Mr. CRAWFORD. I would not.

Mr. SHANLEY. Because of its effect on the present international situation you want it included as a specific embargo?

Mr. CRAWFORD. Yes; if other items are mentioned specifically.

Mr. JOHNSON. Nothing is mentioned specifically under the present law.

Mr. SHANLEY. We went over this in 1936 and 1937, and we decided on arms, ammunitions, and implements of war. We took it out of the Supreme Court and the Geneva Conference, and we decided all of those things should be left to the President, in the main. Because this specific act has a specific temporary purpose, you want to take it away from the discretion of the President and include it in this act?

Mr. CRAWFORD. That is correct. We are now very close to war.

Mr. SHANLEY. You realize that this act as it is now is dependent on the discretion of the President as to a finding?

Mr. CRAWFORD. That is correct.

Mr. SHANLEY. And also changing the wording, the original clause there, "whatever the President shall find"—with that, are you satisfied with this present act?

Mr. CRAWFORD. Under present conditions?

Mr. SHANLEY. With your amendment, do you think it is satisfactory?

Mr. CRAWFORD. No. If the present act is to remain unchanged, I have asked that this be embraced within the arms of that act. When you start in to revamp the present act in line with the new conditions and new thought or philosophy, then that alters the situation.

Mr. SHANLEY. But from the standpoint of the President and the Secretary of State, and what you understand to be the present foreign policy or attempt to create one, you are absolutely in sympathy with all of this because it affects important commodities?

Mr. CRAWFORD. Yes.



Mr. SHANLEY. The boom has nothing to do with it. All of this abnormal shipments of commodities create booms, just as the shipment of planes to France creates a boom in the manufacture of planes and a demand for more of them.

Mr. CRAWFORD. I would say large sales and increased production tends to reduce the unit cost—not only the cost but the unit selling price of airplanes. Here is the situation, where governments are seeking material that can be converted into, manufactured into, war material. It directly increases the price of the raw material which is involved and pulls up the price of all finished steel products into which that raw material might enter to 130,000,000 people in the United States.

Mr. SHANLEY. I agree with you there. The contribution is illuminating.

Mr. CRAWFORD. I think we certainly should protect our interests.

Mr. VORYS. Mr. Chairman.

Mr. BLOOM. Mr. Vorys.

Mr. VORYS. What would you think of a simple statutory embargo against the shipment of scrap iron to Japan and to Congress passing that? At present, as you know, the President has not invoked the embargo provision in the undeclared war in the Orient, and it is quite possible that the embargo provisions of the law may lapse or may not be enacted. So your definition of scrap iron under that may become academic or is academic at present. We have a present situation where there are hostilities going on in China and where there is an enormous amount of scrap iron going to Japan. What would you think of just a plain statute which would put an embargo on the shipment of scrap iron to Japan?

Mr. CRAWFORD. I think a direct embargo against Japan now would be a very unwise policy to follow for this reason: Suppose you embargo the export of scrap iron to Japan and continue to ship other things to Japan as we are now shipping them, and at the same time continue to make loans, as we are now making loans to China; it just does not hold water. It is an unbalanced program and will not work out satisfactorily.

Mr. VORYS. What would be your objection to it?

Mr. CRAWFORD. Because it is so inconsistent it has no sense to it. Suppose I say to my friend here, "I am going to fix it so you cannot get any food in the open markets of the world, and literally starve you and your family to death"; and then I say to my wife, "You slip around to the back door and take them a lot of nice things to eat," and I try to follow both policies at the same time.

Mr. VORYS. But, is not this your situation: Here is a raw material that ought to be conserved. It is somewhat embarrassing to try to attempt to create a world-wide embargo.

Mr. CRAWFORD. May I understand the gentleman now. I would be in favor at this particular time of an embargo on the exportation of scrap iron and scrap steel and tin scrap and junk to all the countries of the world, and holding it for our own people. That would be a simple step to take.

Mr. VORYS. Now, suppose that embargo were impracticable, what would be your objection to picking out one nation, where a tremendous amount of scrap iron is going, where we know it is being

used in violation of treaties to which we are signatory, and just simply stopping that delivery of scrap iron, even though we do nothing else?

Mr. CRAWFORD. As effective as it might be in a way, and as punitive as it might be to Japan for having violated something that we feel they should have lined up to and taken their medicine, I think after all it would be a bad and ineffectual policy to attempt to do it that way. I would not advocate such a step.

Mr. RICHARDS. Mr. Chairman.

Mr. BLOOM. Mr. Richards.

Mr. RICHARDS. Suppose conditions were such now that one of the totalitarian states, say Japan, needed cotton more than anything else, and the purchase of cotton by Japan for this purpose would tend to give Japan a great advantage over China, for instance, a weaker nation, and at the same time it would create a boom in the market here in America and help, say, the cotton farmer, would you be in favor of an embargo on that?

Mr. CRAWFORD. That is, on cotton?

Mr. RICHARDS. Yes. It is a raw material which may be used in war.

Mr. CRAWFORD. No; I would not under present conditions as they now exist. Only yesterday morning I received this letter from Osaka, Japan. It comes from one of the large cotton buyers and operators in that country. It is just a few lines, and I would like to read it to you, because it ties into this question. It is dated March 17, 1939, and states:

Please note that the amount of Brazilian cotton imported into Japan is now an average of 300,000 bales per season, and, should the present price difference between American cotton and Brazilian cotton be maintained, it is very likely that the amount will be increased to 600,000 bales per season.

At present, only our leading mills are using Brazilian cotton, but there is a tendency that our smaller mills will begin to use this growth in a near future.

I have simply made these two copies of that letter to hand them to some of my cotton friends on the floor of the House today. This is why they were in my pocket.

Mr. RICHARDS. Let us go to the proposition of disposing of the 14,000,000 bales mentioned yesterday, and let us ask the further question: It is a fact, is it not, they are buying cotton from Brazil, and they are buying scrap iron from Brazil too, are they not?

Mr. CRAWFORD. Yes, certainly; but we cannot raise scrap iron by planting it in the ground. There could easily become a scarcity of scrap iron in our building program. We can produce cotton. We are still at peace with the world, and I am in favor of bartering cotton for tin and rubber. I believe in trading, and I am in favor of sitting down around the table and working out ways and means whereby prices can be met and trades made. I am in favor of trading our cotton to Japan and other countries for goods that we need and can consume, until we say we do not trade with you any more, or we fight you from here on, but at no time do I believe in trying to push out of this country an essential war and raw material which we need, and which we could not produce as in this case of scrap iron. As we approach closer to war we might prefer cotton to tin and rubber, but I think we are long on cotton and short on tin and rubber, so I would trade.

Mr. RICHARDS. As a matter of fact, outside of scrap iron we have a great natural store of minerals that you mentioned in this country.

Mr. CRAWFORD. We could dig iron ore out of the ground, but you cannot reproduce it every year as you can cotton. And, too, we need scrap for enlarged operations.

Mr. BLOOM. Are there any other questions?

Mr. IZAC. Yes. Mr. Crawford, what effect would it have on the Japanese war, let us call it, if we kept all scrap iron from them? Would she have enough iron ore available to produce the 5,000,000 tons you say she is producing now?

Mr. CRAWFORD. Here is what I really think would happen. I think if we discontinued shipping scrap to Japan she would pick up such scrap from other parts of the world as she could and fill in the balance from the Philippine Islands with raw iron ore, where she is getting a large amount now, and from under our flag.

Mr. IZAC. Is it not true that every one of these nations that you have mentioned, with the possible exception of Italy, would be able to get iron ore instead of scrap if we shut off all exports of scrap?

Mr. CRAWFORD. I think they would, probably.

Mr. IZAC. Germany would, would she not?

Mr. CRAWFORD. Yes; but I am not think so much of what would happen to them as what would happen to us if we should go into war activities with our supply of scrap depleted.

Mr. IZAC. Let us look at it this way: Suppose we had to have tin from the Dutch East Indies; we must have it to conduct a successful war?

Mr. CRAWFORD. That is right.

Mr. IZAC. And Japan must have iron to conduct a successful war?

Mr. CRAWFORD. Yes; that is right.

Mr. IZAC. Would it not be likely that she would retaliate to the extent that, if she were shut off from any further iron scrap, that she would say, "Well, we cannot let you approach the Dutch East Indies."

Mr. CRAWFORD. Under present conditions?

Mr. IZAC. Yes; under present conditions.

Mr. CRAWFORD. That is one of the reasons I stated to Mr. Vorys that I would not be in favor of an embargo at this moment, and I again say I would trade cotton for tin and rubber.

Mr. BLOOM. Do we get our tin from the Dutch East Indies?

Mr. CRAWFORD. Yes; some of it, I think.

Mr. BLOOM. Very little?

Mr. CRAWFORD. Most of it.

Mr. IZAC. Yes; most of it.

Mr. BLOOM. Most of it comes from England.

Mr. IZAC. But it goes from the Dutch East Indies to England.

Mr. BLOOM. Could we not trade direct and get our tin from the Dutch East Indies?

Mr. IZAC. There are only a few smelters in the Dutch East Indies.

Mr. BLOOM. Are not all of the smelters in England?

Mr. IZAC. Most of them are in England; yes; but they get their supply not only for the Cornwall mines, but also from the Dutch East Indies, and Malaysia. When any nation has its back up against the wall and has to have these things in order to conduct a war, you know they are going to get them. You can shut off all the

markets you want to, and they are going to get their metal some place.

Mr. CRAWFORD. I think so.

Mr. IZAC. If you think that we need that ore as one of our basic raw materials, then I think we better pass an embargo on those things we have to have in case of war.

Mr. CRAWFORD. My whole approach is to the effect that we need this material here and we should not be pushing it out of this country or permitting it to go out of this country when it is such an essential war material and war is so close to us.

Mr. KEE. Referring to the question asked a moment ago by Mr. Vorys, do you not think that if we passed an act embargoing the shipment of scrap iron to Japan alone, leaving it open for us to ship to all of the other countries, that that would be definitely an unfriendly act toward a nation, and equivalent almost to a declaration of war on Japan?

Mr. CRAWFORD. I think under present conditions it would be. Suppose, for instance, that I am selling goods and here is a group of customers sitting around this table who I have heretofore done business with, and I wake up in the morning, and for some reason I make up my mind I do not like Bill here. You have a good balance sheet, you pay your bills promptly and discount your obligations, and then I call you up and say, "Listen, Bill, I am not going to sell you any more goods." Naturally, Bill will turn against me, and he will influence this fellow and that fellow to turn against me and my program, and he is bound to do it. We have got to treat friendly countries, in my opinion, similar to the way we treat friendly individuals if we are to have peace with them and desire to trade.

Mr. KEE. In other words, treat them alike in the application of our legislation.

Mr. CRAWFORD. I think so, until you designate your enemies.

Mr. BLOOM. Mr. Schiffler, did you have a question?

Mr. SCHIFFLER. I think Mr. Crawford has answered what I intended to ask him.

Mr. CORBETT. Mr. Chairman.

Mr. BLOOM. Mr. Corbett.

Mr. CORBETT. I think it would be valuable to us if Mr. Crawford would elaborate on and emphasize his thought on the stabilization agreements, how they are tied up to our neutrality policy.

Mr. CRAWFORD. I will make that very brief. For months our Treasury Department was attempting to arrest in one manner or another the flow of gold from France. Back in 1936, in the latter days of August 1936 and up until September 25th following, I am informed by the Federal Reserve Board that \$320,000,000 in gold was taken out of the Bank of France by England and in movements to the United States. That followed a very serious situation that had developed and grown worse from month to month for many months prior to that date. After negotiations were carried on there was a simultaneous announcement, as I said a while ago, by France, Britain, and our Treasury Department to the effect that the three of them operating together would stabilize the pound sterling, the French franc, and the dollar. September 25, 1936, Belgium followed with an announcement.

Well, when you get into the western European situation we find countries that are very unfriendly to France and England; others

that are friendly. We find what is known as the gold-bloc countries. We moved into the picture by placing some \$2,000,000,000 of gold on the barrel head through what we term our stabilization fund (exchange) and which now stands at about \$1,800,000,000. Our announcement made September 25, 1936, was of far-reaching importance. Similar statements simultaneously made by our "exchange allies" completed what might be termed an agreement. To do what? To foster those conditions which safeguard peace and will best contribution to the restoration of order in international economic relations. Furthermore, to pursue a policy which will tend to promote prosperity in the world and to improve the standard of living of peoples; to maintain the greatest possible equilibrium in the system of international exchange, and to avoid to the utmost extent the creation of any disturbance of that system by American monetary action. Did we include all countries with their exchange problem? We did not. Have we used our purchase and sale of international exchange operations to protect, promote, and expand the exchange of Germany, Italy, Japan, and Russia? I would not so contend. Our agreement of working arrangement was with England, France, and their allies—in exchange operations. In that manner, we have used our gold and other resources, intelligence, and constant application to protect dollar, pound sterling, and franc exchange so that economic conditions, trade, industry, and agriculture will flow as freely as possible in the United States, the British Empire, Belgium, and France. We are their gold allies. The other countries of the world were invited to "go along with our crowd." They did not come along. They went their way and their exchanges are subject to the operations and manipulations of the central banking systems and governments of the United States, Great Britain, France, and their friends. Using our gold and our financial strength in favor of these few countries, parties to our arrangements, certainly does not place us in a neutral position with countries operating in opposition to our exchange allies. Now, protection of the exchange of a country is equivalent to protecting that country's trade, internally and externally; its standard of living—its very existence. Our President and Secretary of the Treasury hold vast powers of a monetary nature. Does anyone doubt this Congress will, at an early date, refuse to renew and extend those powers? Do any of you doubt the desire of the President to move in a direction which would add strength to the democratic countries of England, France, and Belgium? If all this be true, on what grounds can we impose a neutrality act and make it work in a manner that will avoid or prevent as much trouble as we would lead ourselves into? I sincerely trust the committee will give full cognizance to this important matter before neutrality legislation is recommended.

Mr. CORBETT. One of the first things we did in the World War was to supply our allies with money in order that they might back up the franc and the pound.

Mr. CRAWFORD. Yes.

Mr. BLOOM. Mrs. Rogers.

Mrs. ROGERS. What would you do in regard to the present Neutrality Act? Would you keep it as it is, and would you reenact the cash-and-carry provision which expires the 1st of May?

**Mr. CRAWFORD.** I would love to see this committee go into all of these different questions, Mrs. Rogers, and come up with recommendations to the House and all in the light which the lamp gives us at this particular moment, and based on the experience we have had since the original act became law. Let us now closely reexamine the whole question and try to arrange matters so that we will not get into more trouble through some kind of a neutrality act than we will incur by not having any at all. The President and his confidential assistants know much about these matters we do not know. The President has many plans in hand, all of which directly relate to what steps will be taken internally and externally as we move closer to war. Before we, the Congress, act in a manner that might mislead our great people all the cards should be on top of the table. To merely enact a law does not complete the job. If it be the idea of Congress to "keep out of war" then let us sweep the decks of all relations which move us toward war. Failing in this, I personally feel that neutrality legislation will involve us in more trouble than it will avoid. The medium of exchange is buying power. Gold, plus stabilization of exchange, gives buying power. Buying power enables countries to win wars. Our gold and our efforts are now tied in with France and Britain. To be neutral we must untie our previous arrangements; and this I do not believe the administration or the Congress will do at this time. We have traveled far in the other direction. With these previous arrangements in operation and with the powers of the President and the Treasury renewed and extended, I fear that a vigorous neutrality act, operating contrary to these other forces, may prove to be very dangerous for our people. It would certainly mislead them.

**Mrs. ROGERS.** You think it is apt to be dangerous?

**Mr. CRAWFORD.** I feel it would be.

**Mr. BLOOM.** You said something about writing a neutrality act according to the lamp that is burning at this particular moment.

**Mr. CRAWFORD.** No, Mr. Chairman; I said make recommendations.

**Mr. BLOOM.** Make recommendations?

**Mr. CRAWFORD.** Yes.

**Mr. BLOOM.** That is practically the same thing. Now, suppose there should be a different kind of a light next week or next month or next year. If you are going to write a neutrality act today you cannot cover the situation of the light that may come from that lamp later.

**Mr. CRAWFORD.** You will be in trouble.

**Mr. BLOOM.** Then would not your answer be that it would be better to repeal the Neutrality Act and go back to the system that was in operation for 140 years in this country to take care of the situation as it arises?

**Mr. CRAWFORD.** If this committee, after these hearings are closed, and after you have gone into all of the details that have been presented to you in the testimony, and from high Government authority, you find that such a recommendation would be the proper course to pursue, and if you table all of these bills and then recommend that we repeal such acts as are now on the books, you may be doing a very wise thing.

**Mr. BLOOM.** You would be for it?

Mr. CRAWFORD. I might go along with you.

Mr. BLOOM. Thank you very much, Mr. Crawford, for coming here today.

Mr. CRAWFORD. Thank you, Mr. Chairman.

Mr. BLOOM. Are there any other Members of Congress here?

Mr. VAN ZANDT. Yes, Mr. Chairman.

Mr. BLOOM. We shall be very glad to hear you, Mr. Van Zandt.

**STATEMENT OF HON. JAMES E. VAN ZANDT, REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. VAN ZANDT. Mr. Chairman and gentlemen of the committee, first I want to thank you and the members of the committee for your courtesy and this opportunity to appear in connection with this so-called "neutrality" legislation.

Mr. BLOOM. Is there any particular bill in which you are interested?

Mr. VAN ZANDT. No. I will let you know about that later.

First, let me say at the outset that I speak only for myself. I am making this clear to avoid any misunderstanding. Because of my activities in veterans' affairs in the recent past, it was suggested that I appear as a representative of all veterans. I assure you that I assume no such position.

As commander in chief of the Veterans of Foreign Wars for three terms, it was my privilege to serve as spokesman for that splendid organization of overseas veterans of all wars and campaigns since the Spanish-American War. However, the Veterans of Foreign Wars and the American Legion, of which I am proud to be a member also, as well as other organizations of ex-service men, have capable spokesmen who will reflect their respective views. Hence my disclaimer. It is not that I feel my views on neutrality and the questions which go hand in hand with it differ in the slightest degree with the opinions held by the rank and file of veterandom. On the contrary, I am confident that my deep convictions on question of neutrality and the even more vital and inseparable issue of war are shared not only by the vast bulk of veterans but by an overwhelming majority of the American people.

By making separate mention of the veterans, I did not intend to make any distinction among the American people. If there is any difference between the veteran and the nonveteran, it is this: The average veteran, having endured the hateful experience of war and then witnessing the utter futility of a war fought "to make the world safe for democracy," is even more bitterly opposed to war than the average American, if that is possible.

The average veteran, who is the average American, after all, is opposed to the United States engaging in another war, except for defense, and not even that if it can be avoided with honor. All Americans worthy of the name are doubly opposed to fighting another war on foreign soil and for the benefit of foreign nations, especially in the Old World. They demand that this country keep free from entangling alliances which inevitably lead down the road to war. The American people are prepared to defend our own shores and our possessions. They are prepared to maintain the Monroe Doctrine by

defending any part of the western world from attack by force or political encroachment from Old War powers.

Aside from that the great mass of Americans demand that this country maintain strict neutrality in all wars, so that they may enjoy the blessings of peace, life, liberty, and the pursuit of happiness.

Unfortunately, however, the people do not make wars. They merely fight the wars, die in wars, suffer a lifetime of misery from wars, and pay for wars.

In one of the brief periods when the world was free from war, the principles of neutrality were established by peace-loving men who sought to avoid involvement in other people's quarrels. History, however, records that the rights of neutrals have been honored more in the breach than the observance.

No matter how often defeated, man's desire for peace never dies. So shocking was the mass murder, the misery, the waste of money, and the destruction of the World War, that all peace-loving men vowed it would be the war to end all war. Various steps were taken to that end. Most of them proved vain. Instead of peace, we have witnessed an almost constant succession of wars, international and internal, in a redivided world, already badly divided.

One of the steps taken by this country to avoid future wars was the reaffirmation of our neutrality policy. In that I played a minor part simply because as commander in chief of the Veterans of Foreign Wars I was under mandate to promote that means of maintaining peace for this country. In my enthusiasm and my eager desire for peace, I entertained high hopes the peaceful aspirations of Americans would be fully realized in that seemingly iron-bound neutrality law.

Now, it seems neutrality is a myth, merely a fond hope without foundation. What was once deemed an instrument of peace now appears to be an indirect means of aiding one side or the other in wars, declared or undeclared, if not an actual means of aggression. As often as not, our effort to promote peace by maintaining neutrality aided the aggressor and contributed to the calamity of the victim. In the topsy-turvy situation surrounding neutrality, however, war remained the same grim reality. War never changes. It only becomes more bloody and brutal.

It was difficult enough to draft a neutrality law, in time of peace, designed to preserve the peace by maintaining a strict hands-off policy at all times. But now with the world on the verge of another general war, we are told the neutrality law no longer is neutral and that it must be changed to meet new conditions. It is very confusing to one who entertained the quaint notion that neutrality means "taking no part on either side of a contest." Under the new construction placed upon the word neutrality, it means to aid so-called democracies against dictatorships.

Stripped of flimsy camouflage and polite persiflage, this proposed "neutrality" legislation is nothing more than a method of choosing in advance the side on which the United States will fight in the next war, which persons in high places evidently believe may overtake us before autumn.

Mr. JOHNSON. I want to ask a question there if I may.

Mr. VAN ZANDT. Let me finish, if you do not mind.

Mr. JOHNSON. I know, but I want to know what bill you are referring to?



Mr. VAN ZANDT. The Pitman bill.

To be sure, the "neutrality" misnomer has been discarded as an alias for the measure which is assumed to have the support of the administration. It now parades under the preposterous pseudonym of "The Peace Act of 1939." No more absurd artifice was ever resorted to by a hard-pressed administration to bamboozle the American people.

A bill by any other name would smell as bad. But why beat about the bush? The design of the bill is just as peaceful as a dynamite bomb. Its purpose is as unneutral as possible. Why not call a spade a spade and a war measure a war measure? The title of the bill should read:

An act to select the side on which American boys will fight in the next war, while the American people pay for the whole show and for any other purposes dictated by Great Britain and France.

No measure could more perfectly fit British and French policy and purposes if it had been drafted in Downing Street and O. K'd in Quay d'Orsay.

My complaint is not against the side chosen for the United States by this act of war. I am here to protest against the United States being thrust into a war in the Old World on either side of the conflict which will indeed envelop the world in flames. I still am naive enough to believe the United States can remain neutral. But we never can remain neutral long if Congress surrenders and allows this measure to become law, and I again identify it as the Pittman bill.

Aside from the adroit title, there is precious little pretense about the purpose of the "Peace Act of 1939." It is crystal clear. It is designed to reverse the side which would be aided indirectly by our present neutrality law. Personally, I probably would make no protest against a shift in the side to which we would lend indirect aid in the event of a virtually certain European war. I am here to protest against the absolute certainty that we would be sucked into the very center of the war, under the terms of this pet "peace" measure of the administration. We would not stand a Chinaman's chance of escaping a bath of blood.

In the event of war involving Great Britain and Germany, for instance, the practical operation of our present neutrality law would indirectly aid Germany, despite the fact that it expressly states that no arms made in America shall be sold to any nation at war, under any conditions. It would operate against Great Britain, of course, because she has the money to buy munitions, but could not make such purchases from this country.

On the other hand, the so-called "cash-and-carry" or "come and get it Peace Act of 1939" would operate directly in favor of Great Britain. Under that pacific measure, we would tell the nations of the world to come and get our arms, pay cash on the barrel head and take them away in their own ships.

On the surface, it would appear that we would treat all nations alike, remain strictly neutral, but sell to all comers. We would not even run the risk of having our own munitions-laden ships submarined, as we did during the pre-American participation days of the World War. A mere glance beneath the surface, however, reveals the truly unneutral aspects of the proposal. Germany has neither the money to buy our arms with nor the ships to carry the stuff away.

But Britain has both money and ships and a navy in the bargain. Thus would we double-cross the dictators in favor of the so-called democracies. But we would be anything but neutral.

Certain Germany would not regard us as neutral and she would resort to any retaliatory measures she could find. The British fleet failed to bottle up the German U-boats during the World War and we certainly have no guarantee that Nazi submarines would not slip through the blockade and operate with equal, if not greater ruthlessness against American shipping wherever found on the high seas. By the same token, we have no guarantee from Britain that she would whip Germany, even with our unneutral aid, any more than she did during the World War. The German war machine apparently is as superior today, as it was in 1914. When we went to the aid of the Allies in April 1917, they were bled white and all but beaten. With the weapons of war more deadly and devastating than ever before, would we arrive in time to turn the tide of the war, if we went in on the side of Britain, as we inevitably would? Or would we arrive just in time to take a beating along with Britain?

That is a disaster terrible to contemplate, but we better think of it now and think hard before we lay ourselves open to a humiliation which never has come to American arms. I do not intend to take the time of the committee to go into all the ramifications of that possibility, or probability, but you gentlemen do not need to have a brick house to fall on you to tell which way the wind is blowing.

Some of the advocates of this "cash and carry" or "come and get it" so-called neutrality or "peace" act, blow hot and cold about the effect of the measure. Their strongest argument is that once the United States declares herself in this fashion, the dictators would pipe down and start singing a low tune. Then they proceed to knock their own argument into a cocked-hat by asserting that force is the only thing the dictators understand.

I entertain grave doubt that we would bluff Hitler and his ally, Mussolini, who, no doubt, would be joined by the Japanese war lords. We might try it, but if we failed, the result would be war.

That is the crux of my protest against this dangerous proposal. It does not guarantee peace but war. And any semblance of neutrality goes out of the window the moment we adopt this proposition. God forbid.

I make no pretense of being an international expert, but I do claim to have common-sense and anyone with half an eye can see through this "peace act of 1939." It contains nothing but war and its terrible train of events.

My appeal to you gentlemen is to be honest about this proposal. If we want to play favorites in this game of power politics, let us be honest and repeal the Neutrality Act; don't make a farce of it. Let us be honest with the American people and tell them we have picked our partner and he is taking us into war. We might win, but God help the American people.

That concludes my statement. Thank you.

Mr. BLOOM. Are there any questions?

Mr. JOHNSON. I just wanted to ask the gentleman what he wanted us to do. I understand what he is against, but I want to know what he is for.

Mr. VAN ZANDT. That is a very difficult question to answer in a few minutes.

Mr. JOHNSON. You made a very nice speech, with very nice and appealing and pretty phraseology, and expressions, but we are not interested in speeches when we are today dealing with this question. We want to know what to do.

Mr. VAN ZANDT. In my remarks I tried to bring out the part I played in the advocacy of the present neutrality law.

Mr. JOHNSON. I played some little part in that myself.

Mr. VAN ZANDT. Since then I have been convinced that the trend of events practically makes the law obsolete.

Mr. JOHNSON. What does the gentleman think we ought to do?

Mr. VAN ZANT. I am coming to that. I feel the Pittman proposal would probably drag us into war, as would the present neutrality law. I am appealing to the committee at this time to draft a legislative proposal that will really adhere to the demands of the American people.

Mr. JOHNSON. That is what we are trying to do, and we all know that. We want you to tell us how to get there.

Mr. VAN ZANDT. I think, first, the administration, whether a Republican administration or a Democratic administration, should remain neutral at all times, and curb some of the war mongers that are spokesmen today.

Mr. JOHNSON. That is a conclusion. I would like to have you suggest what legislation we should pass to accomplish that purpose.

Mr. VAN ZANDT. There are at the present time about 15 legislative proposals before both Houses of Congress.

Mr. JOHNSON. Which one do you favor; that is what I want to know.

Mr. VAN ZANDT. You can rest assured it is not the Pittman bill.

Mr. JOHNSON. I understood you were against that. Let us take one you are for.

Mr. VAN ZANDT. There are a few points in the Pittman proposal that I do approve of; however, in general, I cannot approve of the bill. For example, I will say, that when an American boards a foreign ship that moves into a war zone he does so at his own risk. I am favorable to the policy that would send American ships flying our flag into foreign war zones at their own risk—and without the protection of our Government.

Mr. JOHNSON. In regard to boarding ships at their own risk, the present neutrality law just says that they do so at their own risk, whereas the act of 1937 provides that they do not only do so at their own risk, but they are guilty of a crime. Which one of those provisions would the gentleman favor?

Mr. VAN ZANDT. The one to make it a crime.

Mr. JOHNSON. The present law?

Mr. VAN ZANT. Yes; that provision of the present law.

Mr. JOHNSON. You do favor the present neutrality law?

Mr. VAN ZANDT. Yes; that provision.

Mr. EATON. Is the gentleman in favor of making a criminal of an American because he sails his own ship on the seas?

Mr. VAN ZANDT. You do not exactly make it a crime.

Mr. EATON. If you fine him \$10,000 and put him in jail, that almost amounts to making him a criminal.

Mr. VAN ZANDT. To a certain extent, yes; but, on the other hand, if we are going to allow an individual to bring our country into war that will cost thousands of people their lives and thousands more misery for many months and years thereafter, and destroy our economic structure, I believe you have to resort to something drastic in order to prevent that.

Mr. EATON. But if he goes at his own risk and they blow his vessel out of the water and blow him into kingdom come, that does not involve us. He is the gentleman on the firing line, and why fine him or his estate if there is any?

Mr. BLOOM. Did you say "find" or "fine" him?

Mr. EATON. Both. The gentleman made a very interesting statement. Are you in favor of the repeal of the present Neutrality Act?

Mr. VAN ZANDT. There are certain points I would repeal.

Mr. EATON. I gathered you were not strongly in favor of Mr. Pittman's bill?

Mr. VAN ZANDT. No; I am not. I said I had something to do with the passage of the present act. There are certain points in there which I believe are good, and there are certain points in the Pittman which are good, and there are proposals I believe that this committee could make as they study the bill and develop legislation that will, we hope, be acceptable to the American people.

Mr. EATON. Would you be willing to furnish us with a detailed statement of what you think we ought to put into such a bill?

Mr. VAN ZANDT. Yes.

Mr. EATON. That would be very helpful.

Mr. VAN ZANDT. I am as advised right now as I think the average Member of Congress is on this question. Certainly we are all trying to draft something that will keep our country from entering war.

Mr. HENNINGS. You have made a very interesting statement, but I think you have not as yet favored us with a bill of your own.

Mr. VAN ZANDT. I do not intend to.

Mr. HENNINGS. You have, of course, furnished us with a splendid demonstration of what you believe.

Mr. VAN ZANDT. Yes.

Mr. HENNINGS. You have enunciated a principle to which we might all adhere, and which we hope to enact into law.

Mr. VAN ZANDT. Yes.

Mr. HENNINGS. Now, I take it, since you were so vehement in your denunciation of the so-called Pittman Act as a war act, as you described it, you have studied it?

Mr. VAN ZANDT. Yes; I have.

Mr. HENNINGS. Now, which provisions of that act do you approve?

Mr. VAN ZANDT. I have not a copy available.

Mr. HENNINGS. You have read the act?

Mr. VAN ZANDT. Yes, sir.

Mr. HENNINGS. You did not particularize as to any facts, but you merely generalized. To what provisions do you object?

Mr. VAN ZANDT. Under the present Neutrality Act there are provisions that will permit our country to take sides, and you know, and under the Pittman proposal there are also provisions that will, as I said in my remarks, permit our country to take sides.

Mr. HENNINGS. But which provisions, may I ask?

Mr. VAN ZANDT. I would say the provisions favoring nations which control the seas.

Mr. HENNINGS. The provisions dealing with embargoes and what, and so forth?

Mr. VAN ZANDT. The practical operation of the act would be to place an embargo on arms, to nations without money, a merchant marine, or a navy.

Mr. HENNINGS. May I ask you what you consider munitions; implements or articles of war?

Mr. VAN ZANDT. Well, that is a very broad question.

Mr. HENNINGS. It is a broad question, and so we are considering it.

Mr. VAN ZANDT. Of course, implements of war are the perfected weapons, and accessories come under the raw materials, and so forth.

Mr. HENNINGS. Would you include foodstuffs?

Mr. VAN ZANDT. Well, yes; foodstuffs might be included.

Mr. HENNINGS. Which commodities would you include in that class?

Mr. VAN ZANDT. Well, especially cotton.

Mr. HENNINGS. Cotton?

Mr. VAN ZANDT. Yes; and other commodities that would be turned into munitions, and so forth.

Mr. HENNINGS. How about bread and shoes?

Mr. VAN ZANDT. Well, that is true.

Mr. IZAC. Will the gentleman yield for a question?

Mr. HENNINGS. Yes; I shall be glad to.

Mr. IZAC. Let me ask you this question: Would you be in favor of a complete embargo to nations at war?

Mr. VAN ZANDT. A complete embargo to all nations engaged in war?

Mr. IZAC. Yes; a complete embargo to all nations at war?

Mr. VAN ZANDT. In order to preserve peace for America, I would say yes.

Mr. HENNINGS. Do you believe in any act whatsoever? Do you think we would be better off if we repealed all legislation and went back to where we were before?

Mr. VAN ZANDT. I would say "yes."

Mr. BLOOM. I was going to say this, Mr. Van Zandt, after answering a few questions, I believe you now understand what the members of the committee would like to ask of you with reference to this legislation.

Mr. VAN ZANDT. Exactly.

Mr. BLOOM. After studying the various bills which have been introduced in the House and set up very carefully, come back to the committee either tomorrow morning or some day next week so that you will be more conversant with the bills, and answer these questions.

Mr. VAN ZANDT. Just the Pittman bill or all the others?

Mr. BLOOM. Any bill.

Mr. VAN ZANDT. There are about a dozen of them.

Mr. BLOOM. The committee is not considering any particular bill. We are considering any ideas or any views that were submitted to the committee. They are all in this pamphlet. All of the bills and all of the acts are in the pamphlet, and you have space enough to write

in any amendments, and if you have any special bill to offer I would like to see it.

Mr. FORD. Mr. Van Zandt, I think you said you had a good deal to do with the preparation or probably the enactment of the present neutrality law.

Mr. VAN ZANDT. I was not in Congress at that time. I was National Commander then.

Mr. FORD. You were not a Member of Congress then?

Mr. VAN ZANDT. No; I was National Commander then, and I had been doing a lot of shouting across the country on neutrality. That was the part I played.

Mr. HENNINGS. What group was that?

Mr. VAN ZANDT. Over on the other side of Congress, on the Senate side, with Senator Nye, Senator Bone, Senator Clark, Senator Vandenburg, and others.

Mr. EATON. I would like to have Mr. Van Zandt know exactly what we would like to have him do. We are very eager to secure all the helpful suggestions and information that we can, because we are in a very difficult position.

Mr. VAN ZANDT. I realize that, Doctor.

Mr. EATON. You were very responsible in this at one time?

Mr. VAN ZANDT. Yes, sir.

Mr. EATON. So, if you can, draw up the suggestions you have in mind for neutrality legislation, either definitely stating that you think we ought to repeal what we now have, and wipe the slate clean and give your reasons therefor, or if you have alternative suggestions that you have to incorporate and you think that we ought to incorporate into a bill we should like to have them.

Mr. VAN ZANDT. I had intended to do that anyhow.

Mr. HENNINGS. Mr. Van Zandt, you really believe in no neutrality act, no act undertaking to define our actions in time of war between belligerent nations?

Mr. VAN ZANDT. I take the position, that no law at all would be preferable to a law which would definitely commit this country to one side or other in the event of war.

Mr. RICHARDS. Mr. Van Zandt, we have three things we can do here. One is amend the present neutrality law, another is repeal the act, and the third is to write a new law.

Mr. VAN ZANDT. The cash-and-carry provision expires May 1.

Mr. RICHARDS. You say owing to propaganda we got into the last war, and we had no business in it, or, in effect you say that, yet you advocate repeal of the present neutrality legislation to throw us right back to where we were at that time.

Mr. VAN ZANDT. Yes, sir.

Mr. RICHARDS. You think it is better to take our chances on that than to have any legislation at all?

Mr. VAN ZANDT. Exactly. During the period prior to the World War, you understand there were those who advocated neutrality, and who have done likewise since the close of the World War. As the result of the policies prior to the World War, for the time being, I understand it was difficult to say whether we were going in on one side or the other, and I understand it was only at the last moment

that our country decided to join the Allies. That is my impression of what took place prior to the beginning of the World War.

Mr. BLOOM. Are there any further questions?

Mrs. ROGERS. How do you feel about loaning money to belligerent nations?

Mr. VAN ZANDT. I think the loaning of money, Mrs. Rogers, is one of the most dangerous things that we can engage in during a period such as exists at the present time.

Mrs. ROGERS. Then you would like to have that provision re-enacted?

Mr. VAN ZANDT. Yes.

Mr. ALLEN. Then you would like to have some legislation?

Mr. VAN ZANDT. Oh, absolutely—let me correct myself. I misunderstood Mr. Allen. I thought he was going to say I approved certain points in the present neutrality law.

Mr. BLOOM. Mr. Van Zandt, will you be back tomorrow?

Mr. VAN ZANDT. No, Mr. Chairman; I cannot come back tomorrow.

Mr. BLOOM. Could you come back Monday or Tuesday?

Mr. VAN ZANDT. Yes; I could back Monday.

Mr. EATON. Give Mr. Van Zandt plenty of time, as he has to evolve something here.

Mr. VAN ZANDT. Yes.

Mr. BLOOM. We will leave it this way: We would like to have it as soon as you can possibly be here, because we are very much interested in your statement, and especially the people you represent indirectly, we will say, and you know considerable about the subject. So as soon as you possibly can appear before the committee, we will appreciate hearing from you.

Mr. KEE. When you bring your statement into the committee, Mr. Van Zandt, give us your views upon retaining upon the statute books certain provisions of the present law; that is, those provisions with respect to making loans in this country contained in the present law, and also with reference to the shipment of munitions abroad. That is in the present law, too. I do not suppose you want those provisions eliminated.

Mr. VAN ZANDT. No.

Mr. KEE. We would like to have your views on that.

Mr. BLOOM. Thank you very much, Mr. Van Zandt, for your enlightening statement, and we will look forward with considerable pleasure to your appearing here again.

#### STATEMENT OF DR. THOMAS H. HEALY, DEAN OF THE SCHOOL OF FOREIGN SERVICE, GEORGETOWN UNIVERSITY, WASHINGTON, D. C.

Dr. HEALY. My name is Thomas H. Healy, dean of the School of Foreign Service of Georgetown University, professor of international law and foreign relations; formerly professor of international law at The Hague; occasional lecturer on neutrality at the Naval War College and the Army War College; formerly national chairman of the national defense committee of the American Legion, and so forth. Author of four books on American foreign relations and international law.

**Mr. BLOOM.** Whom do you represent, if anyone?

**Dr. HEALY.** I represent myself, which keeps me busy. I appear in response to the invitation of this committee, which requested my views on neutrality revision.

**Mr. BLOOM.** How long do you expect, Doctor?

**Dr. HEALY.** Close to 20 minutes.

**Mr. BLOOM.** Close to 20 minutes? **Mr. Van Zandt** said 10 minutes and he took 30 minutes. Is there any particular bill you want to address yourself to?

**Dr. HEALY.** No particular bill.

**Mr. BLOOM.** No particular bill?

**Dr. HEALY.** Our prime purpose is to help keep America out of foreign wars. No one pretends that we can arrange a 100-percent guaranty or that neutrality legislation alone is sufficient. Many other things—including a sound foreign policy and adequate national defense—are essential. While a major war abroad would damage us, there is no proof that we would not be able to stay out, if we act prudently. Norway, Denmark, Sweden, Switzerland, and Holland, which were right on the edge of the battlefield and whose very limited resources permitted strong pressure against them, kept out of the last war. They have served notice that they intend to do so the next time. If these small and weak nations, close to the scene of battle, can remain neutral, our chances are far better—if—if we will only display as much horse sense as they do. All South American nations—except Brazil—stayed out of the World War, although they—and especially Argentina—had important links with Europe.

Through emotionalism and propaganda we may be misled into believing that foreign wars which do not vitally concern us are really our wars. Nothing that is going on abroad menaces our own vital rights to the extent of warranting even a third-class war. If we are inclined to enter another crusade "to end all wars and make the world safe for democracy," we should remember our sad experience of 20 years ago, when in spite of spending \$100,000,000,000 and losing or maiming the flower of our youth, we came close "to ending all democracy and making the world safe for wars." Another such crusade would probably destroy our own democracy.

The best way to keep out of future wars is to remove as many as possible of the causes that contributed to our involvement in past wars. This is the prime purpose of our neutrality legislation. It should be American legislation, designed to help preserve the peace of America. There is no proper place in such legislation for futile and dangerous attempts to insure peace throughout the world, to punish far-distant aggressors, or to equalize the existing inequities between nations. Picking the aggressor is a most difficult, dangerous, and thankless task. The unequal effects of our policies are inevitable for reasons for which we are not responsible and which are beyond our control. But, unequal application of our neutrality laws (which is within our control) is not neutrality but intervention, which almost inevitably would defeat the prime purpose of this legislation to help keep us out of foreign wars. Such proposals amount to sanctions. Sanctions have been tried and miserably failed. Responsible statesmen throughout the world have labeled them properly as "Mid-summer's Night Madness" and rejected them as a direct prelude to war.



They receive no serious official consideration except in these United States alone.

For these reasons, bills, such as the one submitted by Senator Thomas and endorsed by Colonel Stimson, should be rejected. This is not isolationism in the unfair sense in which that word has been carelessly thrown around in recent months. It follows that wise statement of President Roosevelt in his Chautauqua speech of 1936, when he said: "Peace, like charity, begins at home. \* \* \* We are not isolationists, except insofar as we seek to isolate ourselves completely from wars."

We are told that legislation which does not discriminate between belligerents is immoral. If so, the entire world is immoral, because it has always sold to all sides indiscriminately. Throughout the century and a half of our own history we have done so, claiming it to be a right and no question was ever raised until very recently as to any moral issue. We have also profited from buying such materials every time we ourselves were belligerents.

A false assumption back of some bills concerns the Kellogg Pact. This pact did not abolish wars—it in effect legalized all future wars! No nation can be legally guilty of violating this Pact, no matter what it does, as long as it claims that it is operating in self-defense. As the official (but forgotten) records show conclusively, not only did the Pact reserve completely the right of self-defense, but went much further and made each nation the sole judge of what was its own self-defense. The United States Government itself insisted on these rights to the extreme limits.

Our neutrality legislation in no way violates international law, provided it is applied equally. But it has and may again violate treaty obligations. We violated our treaty with Italy when we imposed the arms embargo in the Ethiopian conflict. If we imposed an embargo against Japan today, it would be in direct violation of article V of our existing trade treaty with Japan. Our latest trade agreements contain special reservations safeguarding the Neutrality Act. As there are still some nations with whom we have no such reservations, an amendment should be made to cover the matter, probably somewhat similar to the one introduced by Senator Pittman and Congressman McReynolds of this committee in January 1936, providing for negotiations to amend or terminate such treaties.

A current myth is that we are giving up freedom of the seas. Through the legal principles of contraband, blockade, continuous voyage, and ultimate destination, freedom of the seas has been largely a figment of the imagination. While our neutrality legislation gives up nothing real, it does rid us of unsupportable claims that might lead to war.

You have before you proposals to include warfare or undeclared wars as distinguished from recognized wars. Such warfare is neither new nor illegal and we ourselves have indulged in it. As far as neutrals are concerned, there is a vital difference between warfare and war. Unless at least one of the parties admits that there is a legal state of war neither exercises belligerent rights against neutrals. As the Far Eastern conflict has precipitated this discussion, we should remember that not a single nation on the face of the globe (not even including China itself) considers that conflict

as war, nor has either China or Japan attempted to exercise belligerent rights—that is, the right to stop, search, and seize neutral ships and cargoes on the high seas. As a main purpose of our neutrality legislation has been to avoid the dangers attendant upon exercise of such belligerent rights, where those rights are not exercised a prime purpose for putting the Neutrality Act into effect has not occurred. The Neutrality Act can achieve its main purpose without including such warfare. But if we are seeking an additional margin of safety it would be prudent to include it.

You have before you conflicting proposals as to civil wars (civil strife). Contrary to recent widely publicized statements of Colonel Stimson, the law and normal practice of the United States and the world gives us a complete right to permit or withhold shipments of war materials to both sides in a civil war, including unrecognized insurgents. If we are to keep out of foreign wars the discretionary section about civil strife should be retained. The Pittman bill leaves it out. For neutrality problems civil wars are far more important and dangerous than most Americans think, not only in themselves but because international wars often directly result therefrom. Our own American Revolution touched off a general war in Europe. The French Revolution started general wars which involved us in a limited war with France. The Spanish-American War arose from the Cuban Revolution. The present Far Eastern conflict is traceable in part to civil wars. Much of the potential war danger in Europe today flows from foreign-inspired and foreign-aided civil-war possibilities in such countries as Yugoslavia, Rumania, Russia, Poland, and so forth, which have large alien minorities. A prime reason that Great Britain and France have gone slow in recent months is through fear of civil wars resulting in communism throughout Europe in case of international war. Our own Civil War was the biggest and most deadly war in the history of the world, with the sole exception of the World War. It involved most dangerous problems of neutrality and came close to precipitating a war between the United States and Great Britain because of neutrality controversies.

Our existing neutrality law is based on the indisputable lessons of history. While by no means perfect, it is certainly a step in the right direction, if the American people are interested in keeping out of foreign wars. Its basic features should be retained and strengthened. Contrary to widespread criticism, there is not an iota of evidence that the act has yet failed as to the purposes for which it was designed; these purposes did not include policing the world, helping or hurting certain foreign belligerents, or equalizing their economic or political inequalities. Its sole purpose was to help keep America out of foreign wars, and up to date it has done that.

The main controversy concerns the cash-and-carry section which expires on May 1. If this section is permitted to lapse, the other existing section forbidding loans and credits would probably put most transactions on a cash basis soon after war broke out. Some of the dangers involved in American vessels carrying articles other than munitions may be eliminated by the now general admission that everything is contraband, that Americans transporting such articles do so at their own risk, and that the President, as an executive right, can withhold protection from such ships, even without authorization

of Congress. While a good part of the major purpose of the cash-and-carry section could be obtained without a renewal of that section, the section, as at present worded, is so broad as to permit its application in a dangerously unneutral way by changing the rules after the "game" has started. If the sole choice were between retaining the section as now written or permitting it to lapse, many would prefer to see it lapse. There is considerable merit to the proposal to renew the section in amended form, making its operation automatic and mandatorily inclusive of all materials except munitions.

The main controversy seems to be whether the arms embargo should be retained or arms put on a cash-and-carry basis like other articles. May I repeat that, international law and international morality, as practiced through the centuries, leave us a completely free hand in such matters. The only controlling factor is practical expediency, based on the one question of which plan will better help keep us out of foreign wars. While it is true that everything is potential war material, there are important reasons for retaining the present embargo on arms, while permitting shipments of other articles on a cash-and-carry basis. The prime effect, if not prime purpose, of the proposed change would be to make the United States the leading munitions depot for the so-called democracies in case they are at war with the so-called dictatorships. As it would be extremely difficult to keep a primary munitions depot out of war, there is the implication that we are indirectly pledging ourselves in advance to fight eventually on the side of certain European nations. If these conclusions are correct—and some of the proponents of the change frankly admit that they are—the change would not be designed to help us keep out of war but rather to involve us in war.

In spite of similarities between munitions and other articles, there are important practical and psychological differences which warrant a different treatment as provided in the existing law. In the last war Germany drew this distinction and centered most of her protests against our being a major source of supply of primary munition to her enemies. She made little effort to question our right to ship other materials useful for war. Our answer, that we were giving equal treatment to both sides, made little impression on Germany because then, as now, Great Britain controlled the seas and could obtain the munitions while Germany could not. When Germany's protests went unheeded, in her desperation she resorted to sabotage in the United States and other drastic measures which contributed greatly to our ultimate involvement in the war. It should be noted that that sabotage was directed primarily against munitions and not against cotton fields or oil wells. Similar war-prevoking incidents may well be expected if the existing arms embargo clause is changed. Permitting munitions shipments on a substantial "cash and carry" basis was a leading cause of our involvement in the World War. The purpose of our neutrality legislation is to remove causes of war involvement. The present arms embargo helps remove one of the leading causes. Hence, dropping the arms embargo would be destructive of a major purpose of this legislation.

One of the great dangers against our neutrality is artificial war booms. This is not so important for well-established peace industries, because they are normally subject and contraction and expansion in

accordance with the laws of supply and demand. They are not solely and exclusively dependent on war trade as such. In the case of primary-munitions factories, we might be establishing a new and artificial industry, possibly leading to a boom, and when the cash ran out there might be great pressure to save this artificial industry which could survive only through continued war sales.

One reason that a general embargo on all articles is not advocated is because of the practical impossibility of checking and enforcing such an embargo. In the case of primary munitions, their manufacture, sale, and transport can be much more easily checked than would be true in the case of other products. It is said that we need to build up a munitions industry to take care of our own requirements. However, there are other ways and means of doing this without the necessity of selling large amounts of munitions to belligerents; at this moment Congress has before it definite legislative proposals to effect this objective. The existence of such an artificially expanded war industry might facilitate too much our own early entry into a foreign conflict. I am still not convinced that it is necessary for the ultimate protection of our own rights to arrange special munitions facilities designed primarily to help one group of potential belligerents.

Existing legislation does not cover American-owned goods in foreign countries nor American-owned vessels flying foreign flags. We have \$7,000,000,000 invested in foreign countries, much of it concerned with essential war materials. Many foreign-flag vessels are owned in whole or in part by Americans. Two-thirds of all American-owned tankers are under foreign flags where they escape the operation of the neutrality act. To avoid dangerous controversies resulting from losses to such goods and ships involved in trade with belligerents, an amendment should be inserted that "such losses shall not be made a basis of any claim put forward by the Government of the United States." This property is not entitled to any better treatment than similar property exported directly from the United States or by American-owned vessels which fly the American flag.

The proposal designed to keep American vessels and citizens out of combat areas is a much needed amendment. Section 8 of the present law should be amended to include not only submarines and armed merchant vessels, but all other war vessels.

In discussing this matter with a number of Senators and Congressmen, I find that they are surprised that all war vessels were not originally included—they attributed the omission to an oversight which should be remedied by an amendment. A full-size battleship is at least as dangerous as an armed merchant ship.

**Mr. BLOOM.** You are referring to what section?

**Dr. HEALY.** I am referring to section 8 of the present law which covers submarines and armed merchant vessels only. It should include all war vessels.

It would be wise to put more definite restrictions on the entry, stay, and extent of repairs to war vessels of all sorts. The usual practice is 24 hours for stay and limitation of repairs to those absolutely necessary to enable the ship to navigate. The discretion in the present law is so broad that it could be used to make our ports the equivalent of naval bases for foreign belligerent fleets.

Another amendment should provide that service by American citizens in the armed forces of foreign belligerents—with or without taking an oath of allegiance to the foreign government—would result in automatic calculation of American citizenship. Other countries have this law and recent experience shows that the lack of it is a dangerous gap in our statutes. It is not sufficient merely to prohibit, as we now do, enlistment or recruiting in the United States.

My final suggestion is that one of the greatest dangers to the neutrality of the United States is collaboration by our own citizens with foreign governments to destroy our neutrality, directly or indirectly. The Logan Act, which has been on our statute books for a century and a half, makes it a criminal offense for citizens of the United States to correspond with foreign governments for the purpose of defeating measures of our Government. And I think that this act should be made specifically applicable to the Neutrality Act. This could be done by a simple amendment which would state that:

The provisions of this act constitute a measure of the United States Government within the meaning of the Logan Act.

I have taken exactly 20 minutes and I am through, Mr. Chairman.

The CHAIRMAN. Are there any questions?

Mrs. ROGERS. I gather that you feel it is perfectly possible to keep out of a foreign war?

Dr. HEALY. There is no question about it. It has been done by nations that are much weaker than we are, and closer to the scene of war. Why can't we do it?

Mrs. ROGERS. I know. But sometimes we feel it is impossible to keep out.

Dr. HEALY. I think we are the victims of an orgy of war hysteria and war propaganda which has little basis in fact, and which is designed for the primary purpose of involving us in foreign fights that do not vitally concern us.

Mrs. ROGERS. A great deal of propaganda is going on through the activities of different groups in this country at the present time, and there is great danger in that.

Dr. HEALY. We have one of the most terrific propaganda campaigns in the history of the world which has been going on in this country for the past year. And it is so cleverly done that most of our citizens cannot even recognize it as propaganda.

Mr. BLOOM. Is that propaganda to have us enact a neutrality act, or to allow it to continue?

Dr. HEALY. The chief propaganda is, Mr. Chairman, as I understand it (and I have checked it rather carefully) for the purpose of putting us into the balance of power in Europe and the balance of power in Asia, as has been attempted for the past two centuries, in reference to this country. It is the same old thing. There is absolutely nothing new about it.

Mr. BLOOM. But for one hundred and forty-odd years we did not have the Neutrality Act and today we have a Neutrality Act. It has not been put in force once, has it?

Dr. HEALY. Mr. Chairman, the philosopher, Hegel, after studying history for 50 years, reached the conclusion that: "We learn from history that we learn nothing from history." I have been a professor at least 20 years, and if we have learned something from history, I

think that profiting from the lessons of history is the cause of this present neutrality legislation (remembering that we always had some form of neutrality legislation). Should we cancel everything we have learned?

Mr. BLOOM. Now, that we know what the German philosopher said, what do you say?

Dr. HEALY. I say exactly the same thing. Except that I think the Congress of the United States several years ago finally profited from the lessons of history. I see no reason for canceling such a wise step.

Mr. BLOOM. But we have a Neutrality Act and nothing has been done with it.

Dr. HEALY. Because there has been no necessity of doing anything more than we have done. Have we become involved in a war? The purpose of the act was to help us keep us out of war. Have we gotten into a war? How can anybody say it is has failed? There has been no reason for putting it into action, other than the Spanish civil war where it was applied.

(The committee recessed from 11:45 to 12:15 o'clock.)

Mr. BLOOM. The committee will come to order.

Mrs. ROGERS. Dr. Healy, what countries do you consider are the democracies?

Dr. HEALY. Well, I may be able to cite offhand about 2 out of 70. One of them is Costa Rica. Would you consider Great Britain a democracy when they have 350,000,000 Indians under their domination.

Mr. BLOOM. May I ask a question there of Dr. Healy, along that line? What is a democracy?

Dr. HEALY. I have been asked that question innumerable times.

Mr. BLOOM. Maybe you can answer it.

Dr. HEALY. I have an answer which I think is reasonable. I think Abraham Lincoln said, "A government of the people by the people and for the people"—not merely a government for the people, but government for, by, and of the people. And that is the distinction between democracies, in my estimation, and all other forms of government.

Mr. BLOOM. Is that the real definition of democracy?

Dr. HEALY. That has been the traditional definition in this country, and we are supposed to be a democracy, even if we are not all democrats. I think Lincoln's definition is classic and good.

Mr. BLOOM. What is the general impression of what the definition of democracy is?

Dr. HEALY. Our general impression is what Lincoln said.

Mr. BLOOM. And you cannot think of anything else except what Lincoln said?

Dr. HEALY. I think that the work "democracy" has been very much abused by applying it to nations that do not meet those requirements. The term today is loosely used or rather abused.

Mrs. ROGERS. Dr. Healy, we hear so much that if there should be a great world war and Mussolini and Hitler should win by a very decisive victory that our trade would be adversely affected. Do you think that is true about our trade, or do you think it would go on anyway, even if they did win?

Dr. HEALY. Mrs. Rogers, I have been studying foreign trade for a quarter of a century, and while any war naturally dislocates and

damages trade, I am convinced that a war would not drastically hurt our trade at all, either during or after the war. It would merely require changes in rechannelization. For example, if Great Britain, Germany, and Italy, who have been selling goods to Latin America, where they are our chief competitors, were at war, we could sell there and largely replace them in that market. The reason we could not do it so well the last was because we did have our own ships, and we were dependent upon the whims of Great Britain as to when and where we could ship anything. But we have a merchant marine today. And one of the prime reasons for a merchant marine is not solely national defense, as many people think, but also ordinary trade. An adequate American merchant marine is essential for us to stay neutral. It permits us to carry on trade regardless of what happens to ships of other countries. So the merchant marine fits in very distinctly with his picture. We could carry on our trade as a neutral without undue hindrance or danger. We did have trade in the last war but we did not have our own ships. The Allies would not let us have ships for any purpose except their own. As a matter of fact, we as a neutral probably would pick up extra trade in case of war. The carrying trade is not a like a railroad track. You do not have to run between two definite points or up definite streets. As long as you have ships under your own control you can ship anywhere around the world, somewhat like a bus line, which changes its routes quickly to meet changed traffic needs. There is plenty of trade in the world, and particularly if the principal trade competitors are out of the picture temporarily, I do not see any dangerous prospect of ultimately losing trade.

Mrs. ROGERS. That is one of the arguments.

Dr. HEALY. I have seen it stated that our trade would be badly hurt, but I have never yet heard anybody prove it. Certainly, it does not square with my 25 years' study of foreign trade.

Mr. SHANLEY. I have two questions. I understand you are coming back. I have some further thoughts on eliminating the prospect of loss of trade. One thought was that Jefferson said where the will of the people is substantially expressed there is a democracy. And where you have leaders expressing that will, I think you have a real democracy. But aside from that, is there some danger that our cash-and-carry policy, in its narrow sense, will kill our merchant marine?

If we give this are we going to lose our merchant marine?

Dr. HEALY. No. That is just what I was trying to bring out to Mrs. Rogers, namely, that we would merely rechannel our trade routes. Because from all past history, every time a war occurs and great maritime powers are in it, there is a tremendous shortage of ships.

Mr. SHANLEY. You are talking about after the war or during the war?

Dr. HEALY. No; during the war. That was one of the crying needs of the period from 1914 to 1918—the lack of ships. So, instead of hurting our merchant marine, war abroad would probably help it.

Mr. SHANLEY. How about the cash and carry?

Dr. HEALY. As I mentioned, our foreign trade and shipping do not run on railroad tracks. We are like busses. If we do not carry to

Europe, then we step in and do the carrying to those countries from which European shipping has been withdrawn, say from South America. Then we ship to South America. If the British, French, Italian, and German lines are out of the picture, we can temporarily divert our ships there. We can probably pick up more than normal carrying trade.

Mr. SHANLEY. You see no harm in cash and carry?

Dr. HEALY. In the long run, not the slightest, neither to our merchant marine nor our foreign trade.

Mr. IZAC. I was wondering, Dr. Healy, supposing, to develop this idea of trade, supposing you are dealing with nations that have no money. Now, all the lucrative business is going to be tied up in the war. Isn't England, France, Germany, and any other nation able to carry goods from South America still going to be in the picture?

Dr. HEALY. They did not do it on a large scale the last time. They primarily carried things that were essential for their own war needs.

Mr. IZAC. Yes; but when they went back I imagine they probably took things that the South and Central American countries needed. If we are going to have to restrict it only to trade in the Western Hemisphere, it is getting close to what I would like to see. I believe in a real embargo in time of war, restricting our shipping to the Western Hemisphere, because a war such as we fear and the reason for which we have the Neutrality Act is a world war and not a little puny war some place between Czechoslovakia and Albania, let us say. It is a coalition of all the nations of the world, practically, with the exception of ours. Would you go along with that idea, that the trade that we would get with the South American and Central American countries would be sufficient to keep ours going?

Dr. HEALY. To a large extent, yes; remembering several preliminary steps which are now being taken care of in legislation. One of them is the laying up of supplies of strategic and essential raw materials, which is something which should have been done a long time ago. In the Western Hemisphere we have practically everything we need. This morning there was some discussion here about tin from the East Indies. As a matter of fact, one-half of all the tin we use comes from Bolivia, although it shows up in the import figures as coming from Great Britain.

Mr. BLOOM. Not as Bolivian tin?

Mr. JOHNSON. It seemed that Bolivian tin was smelted in England.

Dr. HEALY. Yes. One-half of the tin used is right in this Western Hemisphere.

Mr. ALLEN. Is there any reason why we could not construct smelters in this country?

Dr. HEALY. There is no reason, except that the International Tin Cartel, under the domination of Great Britain, has prevented us from doing it. We did have a couple of tin smelters during the World War but they became hooked up with the British tin interests and immediately after the war they were abandoned. We ought to have some tin smelters in this country.

Mr. ALLEN. Then we could deal directly with Bolivia?

Dr. HEALY. Why, certainly. If we buy Bolivian tin now, why does it have to be carted all the way across dangerous ocean lanes and then back again. It's folly.



The CHAIRMAN. We heard all about tin.

Mr. IZAC. Furthermore, if we wanted to go that far, by appropriating about \$2,000,000 we could buy enough tin to conduct a real worth-while war?

Dr. HEALY. Mr. Congressman, the Navy Department and the War Department jointly have made exhaustive searches of these matters. They have concluded that for an expenditure of less than the price of one modern battleship we could lay up adequate emergency supplies of all missing strategic and critical materials—for less than the price of one battleship!

Mr. IZAC. Really, it would come to considerably more than that. Now, I would like to have Dr. Healy admit we have a pretty fair Neutrality Act now. We could strengthen it materially by placing a provision in that act compelling the President to declare an absolute embargo of all materials in time of war, to belligerent nations.

Dr. HEALY. That is what the revised Pittman bill does, practically.

Mr. IZAC. Well, I do not read it that way.

Dr. HEALY. Oh, no. I beg your pardon, I misunderstood your question. It does on ships. It prevents any American-flag ships from carrying any article to belligerents. But a complete embargo on "everything" is impractical. That is my objection.

Mr. IZAC. It may be impractical, but it is the surest way of keeping this Nation out of war, and the only sure way I know of.

Mr. BLOOM. Thank you very much, doctor. Thank you for your enlightening statement. We may have the pleasure of hearing you again next week.

Dr. HEALY. Thank you for your courtesy.

#### STATEMENT OF DR. CHARLES G. FENWICK, PROFESSOR OF INTERNATIONAL AND CONSTITUTIONAL LAW AT BRYN MAWR COLLEGE

Mr. BLOOM. Doctor, may I ask you to kindly give to the reporter who you are and what you are, and all you have done?

Dr. FENWICK. My name is Charles G. Fenwick, professor of international and constitutional law at Bryn Mawr College. I appear before the committee as chairman of a committee of experts which has been studying the revision of neutrality legislation for the committee for concerted peace efforts. That committee represents some 10 to 12 leading organizations, or the heads of leading organizations, all speaking, however, not for their several groups but in their personal capacity.

Mr. BLOOM. You have attended several conferences?

Dr. FENWICK. I have been a delegate of the United States at the recent Lima Conference. I was a delegate at the Buenos Aires Conference 2 years before. If you want more, I published a volume on the neutrality laws of the states, on the eve of the World War, at the request of a member of the Senate Foreign Relations Committee, seeking at that time to throw a little light on what was even then a baffling question. I have written a text on international law, which is widely used in our colleges. I have published half a dozen other works on international law and constitutional law.

**Mr. BLOOM.** Doctor, I think the committee will accept that as proof positive that you are an expert on the subject.

**Dr. FENWICK.** Well, I must admit that the confusion in the public mind on this subject is very great. Nothing could exemplify it more than the fact that you have just listened to a statement with almost every word of which I fundamentally disagree. I am horrified, and, gentlemen, I must speak frankly, it seems to me appalling in this crisis before the world that we should discuss the petty business of whether we are going to make a little more out of the war or a little less. Good God, if we have any emotional response to the horrors that await the world in the event of war, how can we discuss for even 5 minutes whether we are going to profit out of it or not. Is there nothing bigger in the world than the amount of commerce we might gain at the expense of the poor people in the war? If you will excuse that relief to my feelings I will proceed.

I differ fundamentally with the gentleman. He says sanctions are impossible in international law. I recollect in the year 1917, Pope Benedict XV, whose moral authority I am sure the gentleman will recognize, as he comes from Georgetown University, stated if there was to be peace in the world there must be arbitration of disputes and sanctions for the violator of the obligation to arbitrate.

I might recall to him that in the year 1920 the same Pope in an encyclical, which is a more formal document, urged that it would be truly desirable that all nations should unite in one sole society or league of peace, both for the protection of their own independence and for the maintenance of international law and order. And then he added, with the wisdom that is associated with a man who is above national prejudices—he said, provided only that this league be based upon justice and charity surely the church will not deny it valid aid.

That is setting an ideal. I understand the gentleman has turned his back on that ideal. What can be done today in a practical way with a subject upon which we all differ. I do not know whether in this present low state of things anything can be done. But as I read his words, he has turned his back on the ideal, it is, it seems, not a feasible thing and is not to be thought of in this world.

**Mr. SHANLEY.** Mr. Chairman, may I ask a question?

**Mr. BLOOM.** Doctor, do you prefer to make your statement, first, or do you mind being interrupted?

**Dr. FENWICK.** I would be glad to answer any question.

**Mr. SHANLEY.** I did not understand you to say the Pope before had definitely come out for existing law and order, the League of Nations, at that time. Had he indicated in any way he was for that specific method?

**Dr. FENWICK.** No, sir.

**Mr. SHANLEY.** With those sanctions?

**Dr. FENWICK.** No, sir.

**Mr. SHANLEY.** He just stood largely for the ideal?

**Dr. FENWICK.** Yes. This was in 1920. It was a statement just when the new League had been created. Obviously the Pope was not committing himself or anybody to a particular system. He was just stating an ideal. I am stating it in opposition to suggestions that peace by cooperation is an illusion, and to show that complete

indifference to what may be the sad fate of the rest of the world is not borne out by that authority, for those who recognize it.

Mr. BLOOM. Pardon me, Doctor, do you wish to refer to any particular bill, or do you wish to talk generally?

Dr. FENWICK. I should like to come at once to the Geyer bill, which, in substance, is the Thomas bill in the Senate.

Mr. BLOOM. H. J. Res. 226.<sup>1</sup>

Dr. FENWICK. First, let me comment for a moment on the reasons for the confusion in respect to neutrality. Here we have groups all over the country eagerly seeking peace, realizing that something must be done in this emergency, but a complete confusion of opinion. That is quite intelligible. And the reason for it is that neutrality is an illogical conception.

Let us go back to the year 1793, when the first neutrality policy of the United States was proclaimed. The United States saw a war breaking out in Europe between Great Britain and France, and declared itself neutral. The actual declaration, as you all know, did not come until 1794. Jefferson in 1793 formulated our policy of political isolation, that we must have nothing to do with these two warring parties. That was quite natural, in a world which was then completely disorganized. For the young Republic to take sides between the two belligerents would have been fantastic, and as utterly wrong a policy as any could have been. But while we maintained political isolation we maintained economic contact. And the illogical feature of neutrality is that while you insist upon having nothing to do with the causes of the war or the merits of the two parties you insist upon trading with them. Jefferson's first reaction to neutrality was an insistence on the right of American citizens to trade in arms and munitions, which was the livelihood of many people; and that two states, by going to war, had no right to cut us off from such trade. I am not advocating Jefferson's policy. I am just showing its place in the background of the anarchical world, such as it was then, when any country had the right to go to war as it pleased. Naturally, we held back, setting up a principle that we were neutral, but we wanted to trade.

Let us skip along to the year 1807 when President Jefferson, seeing that neutrality was an impossible situation, that you could not be neutral under the very practical circumstances of the case, Jefferson tried to embargo all products. "Let us cut off all trade with these wicked and belligerent nations and stay home." That is one of the propositions we have today. Jefferson tried it. The historian, Adams, said that the ships rotted at the wharves in Gloucester and Boston. In consequence, there was a stampede from New England down to Washington to repeal that law. I do not think the historian was correct. Most of the ships cleared out of the United States for England before that time and then stayed over there so that they would not be embargoed and began to trade with the West Indies. That, however, is apart from the question. But the ships rotted at the wharves, according to the historian, and the New England people come down to Washington and Jefferson's embargo was repealed. Within 3 years we were at war. It has often been said, we might have gone to war with France as well as with England in 1812. As

<sup>1</sup> See p. 622.

a matter of fact, we chose to go to war with England because she had encroached more upon, perhaps had done a little more harm to our trade. Curiously enough, we sided with a great dictator of Europe, who was about the last person you would think we would like to side with.

Let us proceed. Then the United States found itself at war. It went to war for 2 years for its neutrality rights and got nothing out of it. It was neutrality that brought us into it.

Let us turn to 1823. I hope some members of the committee will question me on the Monroe Doctrine, and likewise on the neutrality question which we worked very hard on at the conference at Lima. I think that the Lima Conference made an advance in foreign policy, which we call the Declaration of Lima, which bears very closely on the question. But I hope, if I have to skip it now, to come back to it at a later period.

At any rate, President Monroe was not afraid of dictators. President Monroe saw some gangsters in Europe in 1823. He decided they would have to keep on the other side. He was not afraid to distinguish between aggressors and victims. He decided who were the aggressors. "If you come over here we will fight." The interesting feature about the Monroe Doctrine is that when we took our courage in our hands, the small little Republic that we were, just an infant one, and defied the gangsters of Europe, the Quadruple Alliance, the so-called Holy Alliance, stayed over there. The Monroe Doctrine has saved us many a war that we probably would have gotten into if we had not taken that bold stand, which was to defend the Nation and to keep out the aggressor.

However, I must pass on.

Neutrality is illogical. When the Civil War came to an end it was almost followed by a war with Great Britain for alleged violations of the laws of neutrality during the Civil War. Happily, we escaped that and arbitrated.

The World War came. We thought we had, on the eve of the World War, a system of rules, of rights and duties, of neutrality. They had attempted a codification at the Hague, you remember, in 1907. They attempted still further at the London Naval Conference in 1908 to codify neutrality. They failed.

The World War broke out and immediately we realized these customary rules of neutrality were unequal to meet the situation. For 3 years we wrangled with Germany and we wrangled with Great Britain. The gentleman who preceded me in giving his testimony seems to feel that Britain did us as much harm as Germany. At any rate, in 1917, we were so outraged by the violations by Germany of our neutrality that we declared war. May I observe, Mr. Chairman, in passing, that it is perfectly fantastic to talk about saying that we went to war to make the world safe for democracy. That is just an oratorical device. We went to war to protect our neutrality rights, and that was the issue placed before this Congress. No doubt a number of you were there and voted that our neutrality rights were violated. We resented the violation and we went to war.

Mr. RICHARD. If we went to war to protect our neutrality rights, why didn't we go to war with Great Britain? Certainly they violated our neutrality rights just as clearly as Germany did.

Dr. FENWICK. A very good question, sir. I would answer by saying, I think the violations by Germany were more appalling to our moral sense: the sinking of vessels, submarine warfare; it all shocked us so and struck us as such lawless acts that we were more ready to resent the violations of Germany than the violations by Great Britain. Professor Borchard, who will doubtless appear before you later, with whom I disagree fundamentally, will doubtless say that had we known our neutrality rights better in 1917, that is the thesis of his book, and stood up for them better, we would have not got into the war. That can be argued. My argument is this: Whether rightly or wrongly, we did go into the war for the defense of our neutral rights. When we went into the war naturally we worked up a fine moral cause. You don't go into war—you can't ask boys to die for rights of neutrality. It doesn't appeal to mother, if it does appeal to them. You have to ask them to die for a moral cause. So when we got into the war for the defense of our neutral rights we then brought up this picture: "Let's make this the last war now." I, for one, think the ideal was a high one.

Mr. RICHARDS. You say, you testified, Doctor, that we did not get into this war to save democracy, but I gather from your testimony that you believe we selected our opponent in this war, and it was Germany, because the other governments against Germany came more nearer to our type of government and were democracies? That is the fundamental cause of this thing?

Dr. FENWICK. In part. I would not phrase it quite that way. I would say the German violations of our neutral rights were so horrible, the sinking and the bombing of ships and the loss of life, and add to that the whole emotional reaction to the origin of the war, the violation of the treaty of neutrality with Belgium, I think helped to make us feel that the violation of our neutrality rights was more serious here than in the other case. When Britain violated our neutrality rights she did so with, what shall I say, good judgment, if you want to look at it from that point of view. She requisitioned our ships, while she would not let them go to their ultimate destination, and the owners got higher prices, even though not as high as they might have got had the goods been sent on to Germany. She requisitioned them and paid what was a very good market price. And most of the shippers, while they complained of the violations to Secretary Bryan and Secretary Lansing were, in their hearts, pretty well satisfied with the prices they got for their goods. So, I say, putting it in general, the violations of our neutrality by Germany were emotionally more upsetting and seemed more horrible and we determined, if you will recall Mr. Wilson's note, on which our going to war was actually based, was a note on the submarine campaign, that it must not be carried on in violation of our rights.

Mr. SHANLEY. You do not place any credence in the statement of Spring-Rice, I think in 1914, that practically the whole State Department, except Bryan, was pro-English? Don't you think there was propaganda by the State Department at that time? In other words, you just discount what Professor Borchard has stated about the State Department?

Dr. FENWICK. I am not discounting that. They would not be human beings if they did not have reactions. If anyone thinks that

Mr. Page, the Ambassador to Great Britain, was not influenced by the fact that the cause they were in was the right cause—well, the Page letters show it perfectly clearly.

Mr. SHANLEY. But Spring-Rice's statement, as early as 1914, was that practically everybody, with the exception of Bryan, whom he thought was really addle pated, clearly indicated the State Department had this direction that they were working and that they were going in. There is no question in my mind that they repeatedly deferred notes to the British in order that some forthcoming German incident might come up.

Dr. FENWICK. I am not denying there was some bias. I will say this: Mr. Wilson's notes to Great Britain indicate a very strong attitude, and we held Britain down very well except for the fact that when she proceeded to requisition ships instead of confiscating them, it eased the situation, so that many of our shippers were quite content to have their goods requisitioned, and their protests to the Department of State were rather feeble.

Mr. SHANLEY. Of course, you don't think that is a true declaration of London's unwillingness to adopt that and fulfill it with us? Any country does know what we are doing at any particular time. You cannot hide secrets in a democracy.

Dr. FENWICK. There is no question but that Britain tried to get as helpful a determination of neutral rights from us as possible. It was perfectly natural. I won't say they did get it, but they got it in part. And the only reason I see that we chose Germany is simply that the violations by Germany were more outrageous to public opinion and that they stirred us more. Obviously, behind all that was the fact that American public opinion was slowly making up its mind between the two.

Mr. SHANLEY. You pass over the sinking of all the ships, the rape of Belgium, and the loss of the *Lusitania* as not being sufficiently appalling or heinous enough, and then you pick out submarine warfare? Of course, I think submarine warfare was the last straw. But you also know we lost, up to the break in diplomatic relations with Germany, only three men on American ships, up to February 13, 1917.

Dr. FENWICK. You are also willing to admit that Americans at that time had the right, under international law, to travel on merchant ships of belligerents free from attack, and that the rule was that when traveling on such ships they should not be attacked in any way as to endanger life?

Mr. SHANLEY. I always thought they came under the protection of the flag on which they sailed?

Dr. FENWICK. No, sir. That was the clear rule of international law in 1914; merchant ships were not subject to attack.

Mr. SHANLEY. Not armed merchant ships? Are you distinguishing between armed merchant ships for defensive or offensive purposes?

Dr. FENWICK. I am speaking of unarmed merchant ships. The *Lusitania* was unarmed, although she carried munitions.

Mr. SHANLEY. That was not until after the diplomatic break, of course. Now, I take it, your thought is that the international law prevents, or gives persons who are on belligerent ships the right to protection of life. Our citizens on belligerent ships have no right to be there. I mean, we are not going to offer them any protection.

DR. FENWICK. We are privileged to withdraw protection from them. But in the year 1915 they had the right to protection, and the denial to them of protection by the sinking of the *Lusitania* was a violation of international law. That is the point I was making.

I am sorry, Mr. Chairman, that I raised this issue. We have a bigger problem. I apologize for bringing it up.

MR. BLOOM. That is all right. It is very interesting. However, the committee would like to hear the doctor on the question of neutrality.

DR. FENWICK. Now, that being the situation, I feel the present neutrality legislation is, like all laws of neutrality preceding it, illogical. It is based upon what I consider false assumptions. The primary false assumption seems to me to be that war is something inevitable in this world. I think that, first of all, the present neutrality legislation is based on the false assumption that war is something inevitable and that we cannot do anything about it and we are justified in acquiescing in it; and if two countries choose to go to war and wreck our trade in part, or otherwise injure us, we have little to say about it. The stock market falls; we become panicky—but there is nothing we can do about it. I think that is fundamentally a false assumption, which I would like to return to later.

The second point I would like to make is that the law is essentially inequitable. Its rigidity is the chief objection to it. It is so rigid it leaves the President no option as to whether by its application it might not be favoring—not in its legal terms, which are even between the two parties, but in its practical application—it might not be favoring a nation which is violating its obligations, and that is otherwise attacking our rights. Nothing is clearer in proof of that than the fact that in 1937, when Japan went to war in China, the law, it would seem, and I think in the intent of Congress, should have been applied; but on the technicality that Japan had not actually declared war, we did not apply the law. The reasons why we did not apply it are perfectly clear, because China came on her knees and said:

If this law is applied we are wrecked. This cash-and-carry plan gives Japan just what she wants. Japan does not want to buy munitions. She is not interested in that. She has her own factories. But she does want the raw materials of which munitions are made. And this gives them to her, by the cash-and-carry plan. She has ships in which to carry them, and she can pay the cash.

On the other hand, China, the victim of that outrageous act, would have received nothing, because she could not import arms and munitions. And raw materials she could make no use of because she did not have factories with which to convert them into arms and munitions. Therefore, in view of the impossibility of applying the law without doing the gravest injustice to the victim of that outrageous aggression, and without benefiting the state which was defying us and tearing up treaties with us, the State Department did not apply the law.

I think there is very little criticism today of the attitude of the State Department, although there was in the beginning. Japan violated the clearest possible treaty. I do not refer to the Kellogg Pact, although I might; and I differ fundamentally with the preceding speaker with respect to the Kellogg Pact. I do not agree

at all that Secretary Kellogg meant that Japan could say she was engaged in a war of self-defense in China, and that by her saying so that made it so.

Mr. Broom. What does she call it then, an incident?

Dr. Fenwick. Well, she calls it a punitive expedition. We are not obliged under the Kellogg Pact to accept her interpretation. Just because Japan says it is only a punitive expedition in China does not mean the United States—I am speaking in terms of law—has to accept her decision. And Mr. Kellogg's covering letter, which is sometimes cited as giving each country the right to fight in self-defense, is very far from defending the right of any country, like Japan, to say, "This is a war in self-defense," and that nobody can question it. However, that is in respect to the Kellogg Pact. I think I had better omit that for a minute and turn to a stronger treaty—the Nine-Power Treaty, which was signed in Washington and which was formulated primarily by the United States. The Nine-Power Treaty for the regulation of affairs in the Far East contains a clause which was violated so completely by Japan that now Japan has stopped all pretense that the campaign she is conducting could be otherwise than in violation of the treaty. She is now asserting that the circumstances have changed. Japan changed the circumstances and then tells us the treaty is no longer valid because *rebus non sic stantibus*—the situation has changed.

Mr. Broom. But she still says she is in the Kellogg Pact and that she has not in any way violated the Kellogg Pact.

Dr. Fenwick. I assume Japan still thinks or assumes she is fighting a war in self-defense, but I also insist that we are not obligated to take her interpretation.

Mr. Izac. But if we do not take that interpretation, what are we to do? Go to war?

Dr. Fenwick. No. We do not have to go to that extreme. I am coming to that now.

Mr. Izac. What are we going to do about it?

Dr. Fenwick. The point is that the United States has today the economic power to prevent war. If I thought the use of economic power would be either provocative of war or would tend to draw us more into war than refraining from its use I should not appear before your committee. But it is because I believe the United States today—and it applies even more to the past 5 years—if we were to use our economic power we could stop this violation of treaties—we could stop this international lawlessness—we could do something to stem the tide of anarchy which is increasing every day. And that is why I favor the resolution known as the Geyer resolution and the Senate resolution known as the Thomas amendment.

There are two points I should like to make in observation on that. One is that the Geyer resolution and the Thomas amendment do not give to the President any new discretionary power. That seems to me to be very important to observe, because an earlier witness this morning was quite confused on that subject and seemed to think new powers were given to the President. But the Geyer resolution gives no new powers, except that the President is empowered to make a distinction between a nation that violates its treaties and a nation that observes them. The distinction, however, has no practical conse-



quences unless it is ratified by Congress. The characteristics of the Thomas amendment is that Congress must approve the decision of the President. Now, 2 years ago a committee of which I was then, and still am, a member, advocated that same thing. I only mention it because it is not a new idea.

Mr. BLOOM. You are speaking of the Geyer resolution now?

Dr. FENWICK. I am speaking of the Geyer resolution. Yes, sir.

Mr. BLOOM. That is on page 47.

Dr. FENWICK. The effect of this Geyer resolution would be to dispose of the cash-and-carry plan, or, rather, to give the President, as an alternative to the cash-and-carry plan, the right to put these materials of use in war—scrap iron, cotton, and the like—into the same class as arms and munitions. The necessity for that is due to the fact it is obvious to everyone, and obvious from the testimony this morning, that the raw materials of the war industries, scrap iron, cotton, and so forth, are just as valuable in fighting a war and, in fact, are the only thing desired by a country if it has strong industrial equipment to convert those raw materials into munitions. If you are going to ban anything, it is preposterous to stop at arms and munitions. Raw materials of the war industries are quite as important. Now, this resolution enables the President to cover both arms and munitions and the raw materials.

Mr. BLOOM. That is referred to in section 3, on page 48.

Dr. FENWICK. I have been working on the Thomas amendment; I hope you will forgive me for not having the Geyer resolution here.

Then, all that has been done is that the President is empowered to say whether a country has broken its treaties. That initial decision is clearly within the prerogative of the President in his conduct of the foreign affairs of the Nation. He has always been allowed to do that. No one can reasonably object to the resolution to that extent. The Monroe Doctrine is the clearest example of that. Sometimes it is said the President is likely to lead us into war; therefore, deny him even the right to know whether a treaty has been broken with us. If such be the case, our democratic Government has broken down badly. From the earliest time the President has had the right to decide whether a treaty has been broken or not. And all through our foreign policy we have protested against the violation of treaties.

The President, then, could decide, we will say, in the case of war between Japan and China, that Japan violated the Nine-Power Treaty. About that today, I think, there is no question. Japan has ceased any longer to defend her act as being within the treaty and has merely asserted the treaty is out of date. All treaties are out of date if we choose to violate them and change the conditions and make their continued observance impossible. The President, in this resolution, then, is given the power to say that Japan violated her treaty. He would ask the Congress for approval. There is no Executive discretion running beyond the decision that the treaty has been broken. He then asks for approval of the Congress to discontinue trade with that country. If Congress gives its approval then the trade will be discontinued. There is, therefore, no power proposed in this resolution that would enable the President to put us into any situation that would lead to war. If his distinction, which he now has the legal right to make—a right which he has exercised in the

last few weeks—if his distinction is made, he then turns to the Congress to ask whether the situation is so grave and so dangerous to our own national interests as to call for action. And then, with the approval of Congress, of both Houses, the President can discontinue trade relations with that country completely, or rather, can continue the embargo of trade relations and permit trade relations with the other.

Mr. SHANLEY. Are you looking at page 48?

Dr. FENWICK. Yes.

Mr. SHANLEY. The last four lines: The President has had the authority. Now, he may come before this Congress at this particular moment and do what we would give him under that authority? Isn't that so?

Dr. FENWICK. Yes.

Mr. SHANLEY. Now, the essence of that section is in the last four lines. It is the opportunity we give him to change, modify, or revoke in whole or in part? That is the power he has not got and would not get unless we give it to him in this?

Dr. FENWICK. That would leave him just where he is today. Let us suppose Congress approved of his decision to cease trade with a state that has broken a treaty.

Mr. SHANLEY. State A.

Dr. FENWICK. Japan. Let's not be afraid. I like to mention Japan.

Mr. SHANLEY. We cannot mention it.

Dr. FENWICK. Can't I?

Mr. SHANLEY. We cannot, I say.

Dr. FENWICK. You cannot? Then I will say Japan. The President has, with the approval of Congress, discontinued trade relations with Japan. There can be no sale of anything in trade—no scrap-iron, cotton, or trading in anything of the kind. Now, the conditions have changed, and it seems that there is no longer any need for the discontinuance. The President may then lift the embargo against Japan. That would leave things exactly where they are today.

Mr. SHANLEY. Suppose he wanted to increase that embargo?

Dr. FENWICK. He has no power to do that.

Mr. SHANLEY. It says he has the right to change, modify, or revoke. The word "change" might be interpreted in the present act, under paragraph D of section 2, the right to change, modify, or revoke the Cash and Carry Act, provided it goes into effect. That was the cause of some comment on the floor, as to whether it might give the President, some President, not the present President necessarily, the power, and he might want to use this arbitrarily.

Dr. FENWICK. You notice the President's power is to change the exemption the President has granted to China after the cessation of trade relations with Japan, with the approval of Congress. He may find it necessary not to exempt China any longer. This law gives him the power not to exempt China.

Mr. SHANLEY. I was just wondering whether those words are to enlarge that exemption?

Dr. FENWICK. No. It is the exact opposite, if I may say so. Here is the situation: War is on between Japan and China. The law calls for the imposition of certain restrictions against both.

Mr. BLOOM. Against both?

Dr. FENWICK. Against both. Congress approves of the President's statement that Japan has broken a treaty. Congress approves, therefore, of his lifting the embargo against China. The new law gives him the right to change that exemption for China and revoke the exemption, to modify it. It does not affect the situation with regards to Japan. It merely says, "We have exempted China from this embargo. We now think the situation has changed. China does not seem to want to stop this war. China is allying herself with some other country. We think China should no longer be exempt." Then the President could revoke the exemption and put China alike back under the original embargo.

Mr. IZAC. Isn't that a weakness of this resolution, the fact that you place in the hands of the President the power of determining whether or not a treaty has been violated?

Dr. FENWICK. That right exists today. It was exercised a week ago by the State Department in declaring that the violation of the integrity of Czechoslovakia was a violation of international law, and we hit hard. Only a short time before we declared a similar act was in violation of international law when Secretary Stimson said so as to Japan in 1932, in January; through our whole history the President has had the power to say whether treaties have been violated. He cannot do more than that. It is for Congress to decide whether anything more ought to be done. But you cannot take away the power of the President to say that a treaty has been violated, under our Constitution. You can only impeach the President.

Mr. JOHNSON. The power to exempt, however, one of two beligerents, the President could not exercise that unless Congress approves the resolution? Isn't that true, under section 3A, in support of the exemption under the Neutrality Act?

Dr. FENWICK. The President must put an embargo on both, under my interpretation of the law. Then he states that state A has broken the treaty. He says to the Congress, "In view of this violation of our treaty rights, I ask you to let the embargo continue against that state A and lift it against state B, which has done us no wrong."

Mr. JOHNSON. Then Congress advises on that question?

Dr. FENWICK. Congress advises on that question, and the President may, with the approval of a majority of each House of Congress, exempt such other state.

Mr. JOHNSON. The state that has not violated the treaties?

Dr. FENWICK. Nothing new is done to Japan either by the President or by Congress except insofar as the act does it.

Mr. IZAC. Suppose one signatory violated it to a greater degree than another, as happened in the World War? How would the President function in a case of that kind?

Dr. FENWICK. That would be for you to decide, sir, as a Member of Congress. The President comes before you and says, "I find that state A has violated a treaty." He says nothing, let us assume, about state B. "I ask you, in view of that violation to exempt state B, which I consider innocent of wrong and which has been observing its treaties with the United States." And you say, "Why, Mr. President, we think state B has also violated a treaty, perhaps not

so seriously as state A, but we think it has not got clean hands itself. It is coming before us with unclean hands. We do not propose to allow you to exempt state B." In that case the President could not make the exemption.

Mr. BLOOM. You mean under this proposed law?

Dr. FENWICK. Yes. Under the proposed law.

Mr. BLOOM. Mr. Vorys.

Mr. VORYS. Doctor, I wonder about this. As Mr. Shanley brought out, section 3A simply states what the President may do now. That is, he may come to Congress and say, "Here is a treaty which has been violated. I think you should put an embargo on one country." That is, it is the same thing to exempt one from an embargo and leave it on the other as it is to put one on.

Dr. FENWICK. May I speak to that, sir? I beg your pardon.

Mr. VORYS. I wonder—we were trying to get an example of how the thing might work. Suppose the President, having found, years ago—the then President, having found years ago—that our Nine Power Treaty with Japan had been violated, suppose we were to just simply without this law, simply go ahead and place an embargo on shipments to Japan on all sorts of things, or everything, and so forth. That would achieve exactly the same result as this; wouldn't it?

Dr. FENWICK. Not quite, sir. I am very glad you asked the question. I consider it vital to the whole thing. My thought would be this. I would prefer this Geyer resolution. But if Congress does not pass it I would prefer to have the whole neutrality legislation repealed; and then, as you suggest, meet each situation as it arises. There is no question, as you say, but that if this law had not been passed we would have been quite free in July 1937, or in August, when Mr. Hull sent out his statement of principles, we would have been quite free to put an embargo on Japan and not touch China. That was within our power. And I think that was highly desirable. If you do not feel that you can state definitely your policy it would be as well to repeal the whole thing and meet each situation as it arises and embargo if you see fit.

May I say why I prefer this other method? I think that the Geyer resolution and the Thomas amendment are of very distinct value in preventing war. The other method of letting war break out and then have Congress assemble and decide what to do about it is one way of meeting it. But it is not of a preventive character. My primary interest is for the United States to take a position today which I think will help to prevent war. Now why would this help to do it? It would help in this way, Mr. Chairman, we tell the world that we do know the difference between right and wrong; we do know the difference between a state which violates its treaties and a state which does not. We tell the world we do know of the sanctity of treaties; and that it means something to us. And that a country cannot tear up its treaties with us and then expect to be treated as if it had not done so. We are saying beforehand, "If you do certain things, if you violate a treaty with us, we will not trade with you." This is not a question of going to war and getting all excited—I am referring to witnesses—to get all excited and say, "This is provocative of war." That is to me evidence of a complete misunderstanding.

ing. It is simply to say beforehand, "That nation that violates its treaties and goes to war—we will not trade with it."

Mr. VORYS. Can you give us any examples in history where sanctions have been effective and have not been followed by war? We hear so often the statement, as you heard this morning, that sanctions are useless in that they are merely preliminary steps to war. Can you give us any such examples of where they have worked and been effective for the purpose for which they were invoked and not been followed by war?

Dr. FENWICK. You cannot say sanctions have been ineffective when they have never been tried. Sanctions have never been tried by the whole community of nations. The only case we have, and then not including the United States, where the community of nations has done it collectively, the only case we have is in 1935 at the time of Italy's invasion of Ethiopia. Then we know perfectly well the only sanction that might have been effective against Italy, the oil sanction, was not applied, among other reasons because the United States would not play ball then, and it seemed futile for countries to cut themselves off from the sales of oil to Italy if the United States would just pour it in. Sanctions have never been tried. We cannot say they are a failure.

Mr. VORYS. Is there any example of sanctions, maybe you used collective sanctions, but are there any examples of the unilateral use of an economic embargo, and so forth, that has been effective to force some nation or other to change its course of action, that has not been followed by war? We constantly hear that that sort of measure, short of war, is no good because it either is ineffective or leads to war. Is there any example that you know of?

Dr. FENWICK. We have never tried it, sir. We have occasionally put an embargo on the shipment of arms, as we did in 1912, to Mexico. That was done for another purpose, to keep American citizens from aiding the rebels against the legitimate government. We have had no case where the United States has attempted to use economic power in this way. Therefore, we cannot say that it has failed; nor can we say it has succeeded.

Mr. CHURFIELD. Do you think an embargo against Japan would tend to prevent war?

Dr. FENWICK. I think it would. In 1937, 3 months before Japan invaded China, had such a law been in force it might have been effective. We can't say. Japan was clearly counting on the right to continue trade with us uninterrupted. Great Britain, France, and the United States take 97 percent of Japan's silk. If the United States had cut off our share of the silk trade Japan would not have had the exchange with which to buy scrap iron. There are two ways you can bring a state like that to terms—either refuse to buy from it, and if the trade with it is large they won't have the exchange enough to buy from you. That would have been fairly effective. If you cut off Japan's silk trade, or told her on the date of this law, April 30, 1937, about 3 months before Japan's rampage, we had told her, "No silk trade with us—no scrap iron to you." I think it would have been very effective. But that is an opinion which nobody can prove. You might say: "Can we suppress crime in the community?" If the figures show—well, if a lot of racketeers are running around loose,

as they have at times been running loose, then we have to gird our belt and do something about it.

May I suggest this: Obviously our trade would suffer. I have heard the secretary of the silk workers of Philadelphia area say, "We workers are willing to pay the price of temporary unemployment caused by not buying silk from Japan." But let us admit there would be temporary suffering. It is nothing comparable to what is happening to our trade now with the devastation done by Japan. If anyone thinks that Japan, after getting away with this act of highway robbery, and subjecting China, is then going to leave the door open, I think even the preceding witness who differed with me on other fundamentals would grant that the door would be promptly shut.

Mr. BLOOM. If there is any door there.

Dr. FENWICK. Yes.

Mr. SHANLEY. Is all this predicated on some collective action? Do you say that you must have some conference with other nations who have been horrified at the treaties that have been broken, and they too will accompany in a joint and collective act. I am thinking particularly where we went out on a limb in Manchuria, where England did not follow. In other words, unless you have some springboard that can accomplish all of this it would be ineffective.

Dr. FENWICK. I was going to say it would be far more effective if it was connected and in concert with other nations.

Mr. SHANLEY. For example, suppose there is an aggressor and we decide we are going to embargo. Now, it is a foregone conclusion that this action or economic embargo will be resented. It may bring us into war. Would we be justified then, as Congressmen, in order to punish them, in passing upon the merits of their quarrel, to plunge this country into war?

Dr. FENWICK. You ask several nice questions. First of all, this is not a question of punishing people. Primarily it is a question of defending our rights. I insist the whole legislation ought to be called the Self-Defense Act of 1939. This is not a peace act, with all respect to Senator Pittman. This is a self-defense act. Unless we take a stand against existing lawlessness in the world we ourselves may suffer. This is not a measure merely for the good of mankind. This is for self-defense. We are protecting the rights of the United States. We are protecting our own future. And if we let those conditions of lawlessness continue, sir, we shall suffer in the end. I said I hoped somebody would ask me about the Monroe Doctrine. The very meaning of it is that we foresee a situation that is not going to be allowed to happen because if it happened we would be in greater danger. Therefore, I would say, while it would be far more effective if the nations did this in concert, I still think there is a great value in our doing it by ourselves.

Now, are we in danger of attack? Well, the weak United States must now decide if it tells Japan we won't trade with them, if that is an issue on which she might attack us. Does anyone think that Japan would deliberately attack the United States today and bring on a war against herself? As a practical proposition Japan might resent it very much, but surely, she would not attack us. Secondly, you can be quite certain of this—I am just giving my judg-

ment, sir—if Japan gets away with this act of banditry, it may likely involve us into war later, for as certain as anything can be, the Philippines will be brought under her control and a point will be reached when all our trade will be ruined in China. The final challenge will come, and it will come then, when it could have been prevented. I am trying to emphasize, sir, that I think this resolution of a preventive character; that this tells the state beforehand, "If you violate treaties we will not trade with you." And if the United States has not enough backbone to build up an Army and Navy to stand behind that, then don't do it.

Mr. SHANLEY. Of course, we are doing that.

Dr. FENWICK. We did not do it, sir.

Mr. SHANLEY. Of course, that was only once—

Dr. FENWICK. Please don't misunderstand. I am not speaking for a program of disarmament. I am for an army to defend our rights.

Mr. SHANLEY. Of course, the essence of the 1922 pact was that we all act together, not as individuals. That is the main reason, to my mind, whether the other nations are going to make the self-sacrifices necessary. In every instance they have been unwilling—in the Chicago speech, in the Munich speech—all found them just as deaf to appeals on what we thought should be our foreign policy. I am wondering just how far we can go out on this limb, with this moral and self-denying ordinance, and be effective?

Dr. FENWICK. I would challenge that expression, "going out on a limb." Obviously, I agree with you it would be far better to act in concert. I believe the ideal of Woodrow Wilson in 1920 was the right ideal. I am still inclined to believe if we had gone in then with all the reservations the Senate suggested, and cooperated with the law and order influences in the world, it would be a better world.

Mr. BLOOM. You mean the League of Nations?

Dr. FENWICK. Yes.

Mr. SHANLEY. Provided the other nations made self-sacrifices?

Dr. FENWICK. Yes.

Mr. SHANLEY. Without a provision?

Dr. FENWICK. I think a provision surely should have been made, or insisted upon. I still think we have to protect our national interest in not trading with states that break their treaties. That is the foundation of all this.

Mr. RICHARDS. Under section 3A of the Geyer bill, as I understand it, you would say—we were talking about Japan just now—if Japan broke a treaty, we would go ahead and embargo certain articles we were shipping to Japan, say; and ship those same articles to China. Now, couldn't Japan very well say that was an unfriendly act? If they did say that, wouldn't it logically follow that they would try to stop the shipments to China, and if they did try to do that and stopped those shipments to China, how could we assert our rights except by war? And if we did have a war we would have to go over there and fight it. It would not be a defense proposition.

Dr. FENWICK. You have five questions there. But they are all good. May I speak to the first? Under this law the embargo is put immediately on both. The President then decides that Japan is the treaty breaker and Congress approves the lifting of the embargo against China. The law says the President may lift the embargo,

that is, exempt such other state in whole or in part. The President might well say instead that it would be unwise to lift this embargo against China in whole. "I better put China on a cash-and-carry basis." He has the privilege of doing that. Then there would be no question of the risk of American ships trading with China.

Mr. RICHARDS. You would think then it would be better to put it on a cash-and-carry basis?

Dr. FENWICK. He has that power under this act. He can avoid any risks of attacks by Japan if he thinks Japan would attack.

Mr. RICHARDS. Suppose he doesn't put it on a cash-and-carry basis and we go ahead, and, of course, I am not speaking from the standpoint of our rights under international law, or any pride on our part; I am talking about what would be the result of this thing so far as war is concerned for United States. I am admitting our right. But I am questioning the wisdom of it, if we are trying to stay out of war, and a foreign war on foreign ground.

Dr. FENWICK. I challenge first, sir, the actual fact. I do not think any of our military experts would agree that there would be the slightest chance today of Japan deliberately provoking a war with the United States. Japan would go a long way to prevent that. It would mean the end of her. What Japan would be likely to do would be to declare a technical war against China, which it has not done, and set up all the old rules of contraband and blockade under the old international law, and proceed to enforce them.

Mr. BLOOM. Wouldn't she have to declare war before she can do that?

Dr. FENWICK. Yes; I say she would resort to a technical declaration of war and set up the ordinary rules of blockade and contraband. Then, under this present law, as amended, no American ship would go out. The President could keep Americans off foreign ships. He could keep any goods from going on our own ships and could prevent any of the incidents that might lead to war. In other words, this amendment, this resolution, gives the President the fullest power to avoid any complications with Japan if he feels that to contest Japan, whatever she might do, would be unwise. The law allows him the fullest opportunity to avoid any of those implications, complications, and incidents which might lead us into war.

Mr. BLOOM. Hasn't he got that right now, Doctor? Wouldn't he have that right with no neutrality act at all? Didn't he have that right before 1935?

Dr. FENWICK. No. Before 1914 he did not have the right to penalize an American for taking passage on a foreign warship, or rather, a foreign merchant vessel of a belligerent. You give him those powers by this act. He now can say that no American ship can carry certain merchandise and no American can travel on a vessel of a belligerent.

Mr. BLOOM. Provided he makes a proclamation, he can do that.

Mr. FORD. Assuming the resolution which you favor here should become law, the two countries should become engaged in war, and the President should issue a proclamation and make the embargo on those commodities that this resolution would cover. What would prevent American people from setting up factories, we will say, in Canada, or South America, or some other country, and still ship in that way to those belligerents and avoid the Neutrality Act?



Dr. FENWICK. Nothing. It would just take a little time and we would lose something of the effect of it. But we could not prevent that. Nowhere under our law is there anything by which we can prevent that. We have never tried it. An American can leave the country and go to Canada and enlist in Canada. We can prevent him under the old neutrality acts from enlisting here, but we cannot prevent him from going to Canada and enlisting there. Our legislation has never attempted to penalize Americans for what they do in foreign countries. They have to commit the act on the soil of the United States. May I speak to that in a larger way? What we hope here—what those supporting this resolution hope—is, even though this would not be very effective, even if Japan might still go to war with China at the price of losing her trade with the United States—but as a deterrent to war, at least it sets up a principle that the United States is not willing to stand by and see our most solemn treaties violated and continue all commercial relations as if nothing had happened. I do not think anything has set back, Mr. Chairman, international morality more in the past years, well, that is a little strong, than the fact that the United States, the most powerful Nation in the world, one which is practically immune from attack—no country would challenge us if we did not declare war first on it—we have acquiesced in the violation of sacred treaties, and we have fed Japan with raw materials—scrap iron—with which she has bombed China. That has shocked the morality of the world almost as much as the lawless acts of some of the brigands of Europe. We would like to end that, sir.

Mr. BLOOM. Doctor, would you say something about the repeal of the present Neutrality Act? What would we lose by it? How did we go along for all of these years before we had any Neutrality Act, and still we did not seem to get involved very much?

Dr. FENWICK. May I take the last point, sir? We did get involved. We got tangled up in the War of 1812 and we got into the World War—let's not forget about that.

Mr. BLOOM. The World War was deliberate. In the case of the World War we knew what we were doing. In other words, we severed diplomatic relations for over 2 months before we made the declaration of war.

Dr. FENWICK. May I speak to the larger question, sir? First, the Neutrality Act of 1794 did not penalize citizens at all except for acts done on the soil of the United States. It in no way discontinued trade with the belligerents. We were American citizens under the act of 1794 and we were free to trade with Europe, sell goods, lend money, go abroad and enlist, and do anything that we liked. They must not enlist on the soil of the United States. No military expeditions were to be organized on our soil; no ships fitted out. Money could be loaned. Trade with the belligerents was at the risk of the trader. If his contraband got captured or confiscated that was his fault. If he suffered from the blockade and got caught trying to run it, that was his fault. That was the same with our law of 1818, a revision of the first act, and so down to the eve of the World War. May I refer to a revision of neutrality acts, which I published, in 1913, at the request of a member of the Senate committee? We were trying to patch up that law. But we did not go down radically to controlling the conduct of American citizens in trade. They were

still free to trade. When war broke out in 1914 there was nothing to prevent relations or trading of any kind with the belligerents.

Now, repeal all this and we go back to that. I think that would be better, if you are not willing to take this resolution, which I strongly urge. I would expect, however, if you repeal all this and want to go back to that, then, when a situation arose and an actual war did break out, Congress would meet and make up its mind. I should think it would be very unwise to let a war break out and do nothing about it, but leave us where we were in 1914. I am quite in accord with that situation, that it might contain many involvements.

Mr. IZAC. At the present time, under the present Neutrality Act, we have no embargo against Japan or China. Now, we adopt this resolution and tack it on to the present Neutrality Act. It would not affect it at all, would it? We would be declaring an embargo right in the midst of hostilities, which you would not want to see done, as I understand.

Dr. FENWICK. I am sorry, I do not want you to get that impression. Even now, at this late date, I would do it. But if we had done it on April 30, 1937, I believe it would have had more of a deterrent effect then.

Mr. IZAC. Would it have an effect now?

Dr. FENWICK. I would say your judgment is as good as mine. Knowing how deep Japan has got in the mire of war, it would be very hard for her to get out.

Mr. IZAC. Would you have any objection to our having a neutrality act which in substance would state something like this: We will give you a free hand in your theater of action provided you do likewise with us. The effect of that would be that there would be no trading in the Western Hemisphere, which we consider our zone of influence, unless they kept an open door in China. I am talking now of Japan, of course. Would that be effective?

Dr. FENWICK. I am not quite sure I have the drift, sir. Suppose we cut off all trade completely with Japan and China both?

Mr. IZAC. That's right. Because Japan controls in Chinese waters and we control in the Western Hemisphere. Unless you permit us to trade in China in your zone of influence, we will not permit you to trade in our zone of influence, which is the Western Hemisphere.

Dr. FENWICK. So, that the penalty we should put on Japan would be, while we will not discontinue trade with you, we will keep you from trading over here on this side.

Mr. IZAC. Yes—unless she permits us a free hand in China and in her zone of influence.

Dr. FENWICK. You would have then a distinct penalty against Japan—if Japan kept us out of trade with China—even while her war was going on?

Mr. IZAC. That's right.

Dr. FENWICK. And we would cut Japan out of the trade with Latin America? That is a novel sanction. I should only suggest, if you are going into sanctions—No; I am not objecting to that, but I think it would not be quite as logical a way as the resolution I am advocating.

Mr. IZAC. It may be more effective.

Dr. FENWICK. It may be. I am prepared to close the Panama Canal to a state that breaks its treaties with us. I cannot see why, if the treaties are worth anything, and they are flagrantly violated—no one will deny that in the case of Japan—we have kept on assisting the country to do everything in violation of our treaty.

Mr. CORRETT. What difference is there between the policy that this bill proposes for the United States and the position which England has occupied with reference to European wars on the continent in the past? If I recall my history properly, England has, in the case of every important outbreak, at least during modern times, taken a very definite stand, even to the point of supplying men and money in order to maintain the situation which they desired in Europe. Under this bill, and if I understand your testimony correctly, you would have the United States take a rather similar position as regards the entire world.

Dr. FENWICK. You quite misunderstand me, sir. I have no desire to follow the British policy in any of its ramifications in respect to the use of money or other measures. There is no reference to money here. All I want is that if a treaty is broken, if a country breaks its treaties with us, we should stop trade with it.

Mr. CORRETT. But your policy, or the policy of these bills is simply a negative one as compared with a positive one; is it not? That is, we are going to try to bring about the situations we want throughout the world by refusing to extend certain things rather than by extending aid, as England did?

Dr. FENWICK. I get your drift, sir. We are not proposing to extend aid, for example, to China here. The proposition would be to deny trade to Japan. Now, obviously, you rise to the larger question of whether the nations can ever combine to maintain law and order in more effective ways. That is the purpose of the League, and that purpose has not been accomplished by it. In article 16 of the Covenant of the League of Nations, there were to be economic sanctions imposed, including the cessation of financial relations or trade relations—that was going a good deal further. I am frank to say I wish the policy of the United States would go further than this resolution. But here in 1939 we cannot legislate quite as freely as if this were 1930, before these recent situations occurred. You are faced with an emergency. In an emergency you have to meet the situation as best you can.

Mr. BLOOM. Well, Doctor, the committee thanks you very much for your information and for appearing here today. I believe the committee might accept your kind offer to come again some day next week after the other witnesses have testified. Because I think there are a few other questions which the committee would like to ask you.

There is one thing, if you will just take this question here, Doctor. If you will turn to page 80. Something has been on my mind, and I should like to get your opinion. That is the amended Pittman bill. Line 5 reads, "That whenever any foreign state or states declare a state of war to exist between or among two or more foreign states, the President shall issue a proclamation." and so forth.

Now, from the reading of those few lines, the thought occurred to me that perhaps Germany might declare that a state of war exists

between Japan and China. Any nation may declare that a state of war exists between two states, and then the President would have to issue that proclamation.

Dr. FENWICK. I do not think that is the intention.

Mr. BLOOM. Well, I am referring to the wording. "Whenever any foreign state or states declare that a state of war exists between or among two or more foreign states"—it does not say "the belligerent states"; it says when "any" state declares that a state of war exists between any two states, then the President shall issue a proclamation.

Dr. FENWICK. I should recommend that be modified to say, "existing among themselves."

Mr. BLOOM. I just wanted to get that part. Thank you very much, Doctor.

The committee will adjourn until 10 o'clock tomorrow morning.

(Whereupon, the committee adjourned to 10 o'clock, April 13, 1939.)

## AMERICAN NEUTRALITY POLICY

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THURSDAY, APRIL 13, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order for the further consideration of bills to amend the Neutrality Act. Mr. Keefe will be the first witness.

### STATEMENT OF HON. FRANK B. KEEFE, REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. BLOOM. You may proceed, Mr. Keefe.

Mr. KEEFE. Mr. Chairman and members of the committee, the question of neutrality occupies a dominant place in the present concern of the men and women of America, and I think it is safe to say that the position which this present Congress will adopt on this important question and the answer which we give concerning it to the people of America will be of tremendous importance to the future welfare of our country and our people.

Because of the extreme concern manifested by large numbers of my constituents on this question I am thankful that the committee has permitted me to present some reflections on this subject which I know represent the thought and purpose of a great majority of the people of America.

The whole question of neutrality and its maintenance in time of international stress is one involved with sharp conflict of opinion, and yet in its fundamentals the neutrality policy of this Nation was definitely and thoroughly established when under our Constitution we became a sovereign nation.

Without the necessity of legislative declaration of that policy, I find it best defined in the farewell address of Washington, which address, I believe, should be read and reread by citizens throughout the length and breadth of this land.

The advice given to the people of America in that address is as important and as true today as it was at the time of its utterance, and clearly enunciates, in my humble judgment, the foundation upon which any neutrality act must be grounded. It will be recalled that Washington advised "Justice toward all nations—avoidance of inveterate antipathies against particular nations, and passionate attachments for other nations." He further advised against the in-

sidious wiles of foreign influence and clearly pointed out the "ingratitude of nations." He definitely indicated to the American people the utter lack of common interest with the affairs of European nations and directed attention to their "primary interests, which to us have none, or a very remote relation." He asked then the very question which is so pertinent now:

Why forego the advantages of so peculiar a situation; why quit our own to stand on foreign ground; why by interweaving our destiny with that of any part of Europe entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice.

His advice then to avoid entangling alliances is doubly true today in the face of present European and Asiatic disturbances. He knew, as all of us know, with our larger measure of experience, the results of war, and he charted a course for this Nation to follow, intended, if adhered to, to keep us out of war and to stimulate and promote the art and objects of peace.

I am convinced that the people of America whom we represent, almost unanimously, hate and despise war, and when the decision of the people of America can be made as a result of calm and dispassionate judgment, the decision would unquestionably be against any acts that might even remotely involve us in a war.

I am convinced that the people of this Nation will vigorously resist any attempt or effort to so define our position as to open the way to lead us into a European or Asiatic war.

The people of this Nation look to this Congress to take all steps necessary to prevent our involvement in either a European or Asiatic war.

Almost my entire mail is confined to the demands of fathers and mothers and anxious citizens everywhere demanding that in our answer to this troublesome question of neutrality, if we are to write a neutrality law at all, that it be one that will plug every loophole against our involvement in European or Asiatic affairs.

The definite answer to this plea, however, is not free from difficulty as I see it and consideration of the question has given rise to a multiplicity of conflicting ideas.

I desire to express and interpret what I conceive to be the almost unanimous will of the people whom I represent as follows:

First. I am definitely opposed to extending to the President of the United States, whoever he may be, the right to publicly proclaim and announce the aggressor in any European or Asiatic conflict. This is a power so fraught with possible involvement in foreign entanglements that I, as one Member of Congress, refuse to delegate that authority into the hands of any one man.

Second. Under the present Neutrality Act the President is vested with the power delegated to him by Congress to declare by public proclamation the existence of a state of war between nations, or a state of civil war within a nation, and upon the issuance of this proclamation it is his solemn duty to prescribe and lay down an embargo, within the limitation of the act. I even seriously question the wisdom or propriety of a continuation of this delegated authority, because it is apparent, in view of the situation that has existed since the enactment of this legislation that while the President declared the existence of a state of civil war in Spain, he has not so far as I

am advised up to the present time, recognized that a state of war exists between Japan and China, although we are all well aware of the fact and we are continuing to stimulate our foreign trade by the continued shipment of arms and munitions to those two belligerents.

I believe it should be mandatory on the part of the delegated authority, whoever it might be, to declare the existence of a state of war when such state actually exists as a matter of common knowledge, and that our attitude in the matter of relations to such belligerents should be the same in all cases and should present a definite and sustained national policy of equal application to all nations.

The question as to whether or not, in the event of the existence of a state of civil war within a nation, or a state of war between nations, an embargo should be mandatory, in one of the highly controversial questions involved in this whole subject.

There are those who declare that we must maintain our commerce regardless of international warfare or civil war within a nation, and that our position should be that any nation can buy from us provided it is done on a cash-and-carry basis. Such a provision in the present act will expire on May 1 and the proponents of such a contention insist that the cash-and-carry provisions of the present act be continued and extended. There are others who feel that in view of the fact that economic and trade relations growing out of our shipment of arms, munitions, or supplies, or goods of any character, to one belligerent nation when another may be precluded from availing itself of the same privilege, constitutes an involvement in the situation with international hatreds aroused that would ultimately lead us to war, and the proponents of this theory contend that in the event of a declaration of war, such as I have heretofore indicated, the President should be required to lay down an embargo prohibiting any shipments of any kind or character to any nations so involved.

While it is indeed patriotic to insist upon the protection of our merchant ships upon the high seas, and their convoy, if necessary by the Navy into ports of belligerent nations, yet I am convinced that if by chance one of those ships were sunk causing loss of life to American seamen, that the same passions which propagandists are constantly seeking to arouse would be aroused and the incident might be the means of involving us again in war.

I have, therefore, concluded that if the premise is correct, as most people seem to conclude, namely, that the domestic and internal affairs of foreign governments are no concern of ours, and that, therefore, we should not extend our interests so far as to become involved in their domestic disputes or international disputes, then the only way we can maintain a strictly neutral position in event of the finding of the existence of a state of war, is to enforce an immediate and strict embargo against travel by American citizens within the zones involved, and prevent the shipment of arms and munitions to either belligerent and permit the shipment of generally accepted nonmilitary supplies on a strictly cash-and-carry basis in ships other than those carrying American seamen and flying the American flag.

Such a position would be one of strict neutrality and while in its operation, the effect might favor the nation in control of the sea, yet that should be no concern of ours because I do not conceive it to

be our duty to take sides and it is the taking of sides, due to the whipped-up passions of people, inspired by foreign propaganda, that ultimately involves us in foreign war.

Such a policy of neutrality should carry with it a distinct and ominous assurance to all foreign nations that we are not taking sides, but that we propose to defend the Monroe Doctrine and our territorial integrity with the whole force of our tremendous resources.

It ought to be perfectly clear, from our experience in the last World War, what Washington had in mind when he referred to the "ingratitude of nations," and in the record of history we can never be sure, but that the friends of today may be come the enemies of tomorrow, and in my humble judgment it would be an unwise and foolhardy policy to adopt to attempt to protect the extremely small percentage of our volume of trade that is involved in foreign relations, if in such protection we would be compelled to expend through participation in war, sums that could never be recouped in foreign trade, to say nothing of the lives of our citizens.

I desire to say in closing that I fully realize the tremendous difficulty that is involved in writing legislation to declare a policy based upon conditions as they exist today, which conditions, a week from today, may be entirely changed, due to the apparent utter lack of regard on the part of certain nations for the sacredness of international treaties and yet, I am sure that the Congress of the United States has within it the capacity and the power to meet such changing conditions in the event the necessity arises.

Mr. BLOOM. Thank you.

Mr. IZAC. Mr. Chairman, may I ask Mr. Keefe a question?

Mr. BLOOM. Yes.

Mr. IZAC. You prefer, then, the present Neutrality Act?

Mr. KEEFE. Well, the present Neutrality Act? No, not entirely.

Mr. IZAC. That is in the things you recommend.

Mr. KEEFE. Just a minute. Under the present neutrality law, in the event of a finding by the President, as I interpret it, of the existence of an international war or civil war or strife in a nation, the President is required to issue an embargo proclamation. Now, I am advised that he did so—in fact, I know he did, in the case of the civil war in Spain. I am not advised that he has done so in the case of the war between Japan and China.

Mr. IZAC. Has any other nation suggested there is a war going on in the Orient, aside from either of the two participating nations?

Mr. FISH. Might I interrupt the gentleman?

Mr. BLOOM. Please, Mr. Fish.

Mr. FISH. I will not interrupt the gentleman, except to say that the bill reads not a "declaration of war" but "a state of war." I know of nobody in the world that does not know a state of war exists in China.

Mr. KEEFE. I simply want to answer the gentleman by saying that the present legislation bases the fact of an embargo upon the proclamation by the President, not that a declaration of war has been issued by either nation against the other, but that a state of war actually exists, and a finding by him to that effect.

Now, I think it is almost puerile to say, in view of what we know of the situation in the Far East and the shipment of arms and muni-



tions to both conflicting parties, to say that is not a matter of common knowledge that war exists in China today. I cannot see for one minute why the President, acting under the power of Congress to declare that a state of war exists, and to impose an embargo, has not done so when he saw fit to do so in the case of the Italian-Ethiopian War and the Spanish civil war.

Mr. IZAC. Of course, in the Spanish civil war we gave him expressly that power, in the first days of the Seventy-fifth Congress.

Mr. KEEFE. Mr. Izac knows, and it is a well-known fact, that the original Neutrality Act did not provide for the covering of a state of civil war within a nation. And the situation became so acute in Spain that the President issued a proclamation outside of the provisions of the act itself and asked that citizens of America observe our neutrality. And when they shipped all the airplanes and supplies so surreptitiously, and they were being taken out of New York for shipment to Spain, Congress got busy and attempted to pass a resolution in order to stop it, but it was not soon enough. And later Congress, in response to public demand, wrote into the substantive law the provisions that the President shall declare an embargo in case of a proclamation finding a state of civil war to exist.

Mr. BLOOM. Any further questions?

Mr. CHIPPERFIELD. Mr. Keefe, suppose we were to retain the present Neutrality Act, in your conclusion you state, that Congress has the power, to change the rules to meet the emergency. Don't you think that might be dangerous? For instance, if we say the rule is such and such under the present Neutrality Act and then we come back after a state of war exists and do something against one nation or another, which may itself be termed an unfriendly act, almost an act of war—isn't it better, perhaps, to go back to the old plan of no neutrality act and then meet an emergency as it comes?

Mr. KEEFE. Well, the difficulty of that is this: I consider that in the last statement I have in my remarks you will see I attempted to state that position. Let me state again, it is my position that the acts, you understand, of a foreign government directed toward us, such as the sinking of a ship flying the American flag and having American seamen aboard, is usually the incident that sets off the spark that whips up the passions of our people. Now, my position is, first of all, if the President finds, or the delegated authority to pass upon that finds, and it should be a mandatory matter for him to so find in accordance with the facts, that a state of war exists, then there should be an immediate duty on the part of the President to declare an embargo on the shipment of arms and munitions and the preventing of American citizens from sailing on ships within that area. And then the President could make his proclamation, or the embargo, so as to permit the cash-and-carry provisions to apply to strictly nonmilitary supplies, provided they are carried in foreign-flag ships.

Dr. EATON. Mr. Keefe's statement is so lucid, it is apparent at one point I did not quite follow him. He wants an absolute immunity from contact with the world in case of a world war, as he said, but he is willing to have folks come over here in their own ships and buy stuff from us. Wouldn't that be taking some helpful part?

Mr. KEEFE. They will not come over here and buy war munitions as such. I realize that, when I say that, bread and food and clothes are helpful in maintaining a nation involved in war.

Dr. EATON. It is the essence of war munitions. You have got to eat to live. An army travels on its stomach.

Mr. KEEFE. They have to eat to live.

Dr. EATON. If you permit them to move here and buy and carry stuff away with their own ships you will help whoever has command of the sea.

Mr. KEEFE. That is very possible, and the argument has some merit. You have to make a choice between that position and one of free commerce between nations. You have to draw the line some place.

Dr. EATON. Well, would you be willing to repeal the Neutrality Act in its entirety and leave the matter up to Congress to act as occasions demand?

Mr. KEEFE. I do not think I would, for this reason, Dr. Eaton, that considering this question calmly and dispassionately today, if we repeal the Neutrality Act in its entirety and trade starts going forward and three or four of our ships are sunk, and then the President decides to call Congress, to convene Congress, and those ships are sunk by the act of one belligerent involved in international war, you know as well as I do the passions and the spirit of the people of America will have been whipped up and that Congress when it convened would have an extremely difficult time in writing any neutrality act as the result of calm, deliberate judgment, but the passions of the people would be reflected in that act. I think that is the thing we must be careful of.

Dr. EATON. One other thing I had in my mind as each of these witnesses have been here and given us such very valuable help. This country is the greatest nation in the world. It is the greatest power. It has the greatest influence. It has a great moral force in the world. We are in contact continuously and completely with every other nation of the world all the time. We have interests in every part of the world. How are we going to isolate ourselves in the Western Hemisphere in this wicked world, and not exercise the moral obligation that the biggest brother in the family ought to have?

Mr. KEEFE. Now, when you say "exercise the moral obligation," just what do you mean? Does that moral obligation carry with it the big fist and the club—and just how far are we to go?

Dr. EATON. If you will excuse my using this illustration: You are an extraordinarily gifted man—

Mr. KEEFE. I wouldn't say so.

Dr. EATON. And you have been a private citizen. Well, I think everyone will agree that is a correct diagnosis.

Mr. BLOOM. I will agree with that.

Dr. EATON. The chairman agrees with that.

Now, you are a private citizen and you felt the conditions of the country were such you were under an obligation to lay your magnificent powers and labor before the public service. You have done it and probably, without doubt, injured your law practice seriously before you get home. You had that obligation because of your strength. It was your duty to do it. Now, do you mean to say those obligations rest upon an individual and do not rest upon a great aggregation of individuals such as the American Nation? Of course, now, I am asking for information.

Mr. KEEFE. I think there is a very vast distinction between the situation as you give it, and the obligation as between nations. I might come here to Congress, and perhaps at some sacrifice to myself—it may or may not be in response to the demands of public duty—but we will assume that high motive is what prompts all of the Members of Congress to come here. Now, I can come to Congress here, and you can, Dr. Eaton, and give the United State the benefit of your superlative capacity and judgment.

Dr. EATON. Thank you.

Mr. KEEFE. And whether you come or not is perhaps—or whether I come—is of little concern as affecting the welfare of the people whom you represent intimately. Somebody else could come in your place and could come in my place, just as well.

Dr. EATON. I am not ready to admit that.

Mr. KEEFE. I am willing to admit it because the chairman stated, I think, that there have been something over 10,000 here in the past, and they seem to have done a pretty good job.

Mr. BLOOM. I would suggest we come down to neutrality.

Mr. KEEFE. I suggest that too.

Dr. EATON. I have not had any light thrown on the fundamental question, but it is all right.

Mr. BLOOM. Do you have any question, Mr. Stearns?

Mr. STEARNS. Isn't the government of a country in the position of a trustee for its people? The individual can take such action as he sees fit under the inspiration of a moral state of mind, but a government has to consider the welfare of its people and has to act, as I say, for them as a trustee, just as a trustee of an estate, for instance, is free to perform certain acts which he might choose to do for himself on investments, so has the government the same freedom to act under moral stimuli that the individual might have? Isn't there a distinction there?

Mr. KEEFE. I very crudely attempted to point out there was a distinction, in my judgment, along the lines that the gentleman is suggesting.

Mr. KEE. May I ask the gentleman a question?

Mr. BLOOM. Yes.

Mr. KEE. We are making an effort here to take some action which will prevent the United States from getting into trouble. We have at present on the statute books the Neutrality Act. The question is whether or not that act should be repealed or whether it should be amended; and, if so, in what respect should it be amended. Are you in favor of repealing the present Neutrality Act?

Mr. KEEFE. No. I am not in favor of repealing the present Neutrality Act.

Mr. KEE. Are you in favor of repealing any sections or a particular part of the act, and, if so, what sections?

Mr. KEEFE. Yes; I am in favor of letting the cash-and-carry provisions of this act expire—and a rewriting, with provision, if necessary, so as to permit, only in the wisdom of Congress, the cash-and-carry provisions to apply to nonmilitary items.

Mr. KEE. And in the new act would you retain the principle of the cash-and-carry idea?

Mr. BLOOM. For nonbelligerents?

Mr. KEEFE. I beg pardon?

Mr. BLOOM. As to nonbelligerents.

Mr. KEEFE. To be shipped, if at all, not in American bottoms.

Mr. KEE. But you would retain the general principle of the cash-and-carry provisions?

Mr. KEEFE. As so limited; yes.

Mr. IZAC. Mr. Chairman, Mr. Keefe also, I believe, is in favor of making a provision mandatory, that the President shall declare a state of war to exist?

Mr. KEEFE. Exactly.

Mr. BLOOM. In other words, you prefer Senator Pittman's bill, as he made it originally in the original bill, mandatory after 30 days?

Mr. KEEFE. Well, it is a difficult thing. But as a lawyer, or as a judge sitting on the bench, I have a set of facts presented to me on which I make certain findings. Now, there cannot be any disagreement on the fact that when a state of war breaks out we do not declare war any more. And secondly, the President has got to make a finding, or some delegated authority has, that a state of war exists. And all of our embargoes and all of our Neutrality Act is apparently predicated on that finding. Now, if you do not make a finding, or you make it in one case and do not make it in another, where we may have a dozen nations involved in international disputes, then what is the situation? I think it should be mandatory upon the delegated authority, or upon the President, if the President is to be that delegated authority. It should be mandatory to treat all situations of international disputes alike, and that there should be a finding of the existence of a state of war which makes mandatory the application of those provisions.

Mr. KEE. You said you were not willing to delegate to the President the authority to name the aggressor?

Mr. KEEFE. That is right.

Mr. KEE. What do you think of the idea of delegating to the President the authority to name not particularly the aggressor, but a nation that has broken treaties with us, practically as an aggressor, giving that authority to the President subject to the consent and approval of the Congress?

Mr. KEEFE. I take it, according to what have heretofore been recognized as established rules of diplomatic relations between the nations, that the President and the Secretary of State have that power and have exercised it very vigorously in this last controversy.

Mr. KEE. Have you read the bill presented or introduced by Representative Geyer of California? That is the proposition I was referring to.

Mr. KEEFE. I do not know as I am specifically familiar with that bill, although I have read all of them.

Mr. KEE. And Senator Thomas' amendment?

Mr. IZAC. That is Representative Geyer's resolution, of California.

Mr. FISH. The gentleman seemed to be a little worried, and I believe naturally so. If the President does not carry out the legislation in accordance with the wording of the bill, it seems to me it would be very proper that there should be some board, or the Congress, if the President does not find that a state of war exists, when one actually exists, we might very well amend the bill and give the power to Congress and, therefore, have a certain amount of additional guar-

anty that the laws would be carried out. That is just a suggestion of an amendment, in view of what the gentleman said.

Mr. KEEFE. Well, I think that the Congress—that is the difficulty of international relations. We are human beings and we are subjected to the pressure of partisanship and the infiltration of foreign propaganda here, and it is evidenced on every hand. And if our passions are to be aroused by propaganda they will be aroused perhaps not in the same measure, but in proportionate measure that the passions of the people or America are aroused. We know from our past experience what that does to a nation in whipping up passions or partisanship for one side or the other. That attempt is being made today definitely and positively throughout the country.

Mr. FISH. I think the gentleman is absolutely right. If Congress refuses to act with a neutrality bill and does nothing, and then a war comes and our ships are sunk, it would be very difficult to write a neutrality bill. Furthermore, even if our ships were not sunk, our shipping carrying trade and the shipping interests, all their propaganda and influence will be brought to bear on Congress not to restrict American commerce, if we do not write a neutrality bill at this session.

Mr. KEEFE. My statement is definite on the position that if any neutrality act is to be written at all it should be written when we are calm and dispassionate, as I hope we are at the present time, and not try to do it when the countries are in the throes of war passions.

Mr. VORYS. I am just wondering, Mr. Keefe, what you would think of the language which Mr. Hennings introduced here, and which I think is the language of the Pittman bill—this language makes the action a concurrent one between the President and the Congress and leaves no discretion to anybody to ignore a state of war:

Whenever Congress shall by concurrent resolution find or whenever the President shall find that there exists an undeclared state of war between or among two or more foreign states, the President shall forthwith proclaim such fact, naming the states involved.

Now, the Pittman bill and the Hennings bill start out by saying, first:

Whenever foreign states shall declare war the President shall issue a proclamation naming the states involved.

That is, for a declared war. Then next:

Whenever Congress finds, or the President finds, that there exists an undeclared state of war, the President shall forthwith proclaim such fact.

It looks to me as if that does not leave discretion to anybody. If there is anybody in this country that thinks there is a war going on, it does not leave it to anybody's discretion very much unless all of Congress—rather the majority of Congress—and the President, do not think so, to prevent the Neutrality Act from going into effect. What do you think of that way of starting off?

Mr. KEEFE. Of course, I am not totally unaware of the fact that wars break out with great suddenness and with great rapidity. Of course, those are the actual acts of belligerents. We know that the situation, for instance, of Mussolini going in and taking Albania was known to our diplomatic representatives for a considerable period of time before the actual act of going over there and taking possession of it occurred. And we know that we have foreign representatives

throughout the world that are constantly advising our State Department of international affairs. Yet the question recurs as to whether or not, in the event that Congress is not in session, whether we could wait for such a length of time as to permit the calling of Congress into session and having the wrangle and the debate subjected to all of the propaganda and influence of every partisan involved in that struggle to pass a resolution finding that a state of war exists. In the meantime you would have a situation just as you had, which permitted all this propaganda growing out of the shipment of arms and munitions to Spain. Congress got all excited because a boat was leaving New York Harbor and rushed to work and tried to pass a resolution to stop it. The boat got out on the high seas before they could stop it. Then they did pass, and whipped out, a substantive act in the law.

Mr. VORYS. What I mean is, here is a provision for either Congress finding it, if they are in session, if they want to find it, or the President—either one.

Mr. KEEFE. I think it should be mandatory on whomsoever's shoulders the duty falls.

Mr. BLOOM. They have covered everything in that resolution but the Supreme Court.

Mr. VORYS. That is the only one they left out.

Mrs. ROGERS. You said you thought the whole country was passive? Did you use some such expression? Don't you think they are very much stirred up over what is going on and they are very much afraid of going into war?

Mr. KEEFE. I did not say the Nation or the people were passive. I did not say that. I said I believe that the great majority of the people in this country were opposed to war and were opposed to being drawn into war. And I believe that is the thing which is uppermost in their minds at the present time, due to the international situation, of most of the people of this country, as reflected by the mail which I am receiving as a Member of Congress.

Mrs. ROGERS. Yes. They are really terrified.

Mr. KEEFE. They are terrified.

Mrs. ROGERS. Don't you think the press can do an enormous lot in getting us in or keeping us out?

Mr. KEEFE. The President?

Mrs. ROGERS. The press.

Mr. KEEFE. I am not critical of the press. But I am critical of the propaganda agencies seeking in every way possible to make us partisans in this present European situation.

Mrs. ROGERS. The propaganda at home is extremely dangerous.

Mr. KEEFE. It is; certainly.

Mr. FORD. You spoke a moment ago with reference to amendments to the present Neutrality Act. If I understood you correctly you said when a state of war was declared or proclaimed you would have a mandatory embargo on all nonmilitary and all military materials?

Mr. KEEFE. Exactly.

Mr. FORD. Now how would you determine what is military and what is nonmilitary?

Mr. KEEFE. Well, I presume that the Congress of the United States, if it so elects to do so, may so declare. I realize, you understand, the

difficulty that is involved in this situation and the fact that the United States is involved in international trade. I realize thoroughly that we need certain basic commodities—tin, rubber, and maybe coffee—which are necessary to maintain the economy of this country. I realize we must have some commerce. But we must reduce the elements of getting us into war to a minimum. And that is my simple backwoods judgment on the proposition.

Mr. FOMB. Isn't it true that practically two-thirds of all of our commodities could be used directly or indirectly in war?

Mr. KEEFE. Oh, sure! Sure. The air we breathe is necessary to sustain an army in the field. Sure. That is true. You cannot draw the line and say but what any article under the sun that is used by human beings to sustain life is not necessary to maintain a nation in a state of war. But I am thinking of the noncombatants not involved in the war. And certainly, even though a loaf of bread may be used to fill the belly of a soldier likewise it will sustain the life of a child somewhere in back of the lines. You have to draw the line some place.

Mr. CORBETT. If I recall the gentleman's statement properly: We are going to have a great deal of difficulty in writing rules today to apply to situations next week, which may be different. The fundamental question here, of course, was asked earlier. Do you think we can write rules and should write rules now to govern future situations that are unpredictable?

Mr. KEEFE. No. I don't think that you can. Of course, that question answers itself. But you can lay a fundamental basis now, and if future events indicate that change is necessary, it is in line with the progress of society. You are constantly changing. You could not write legislation today that may be effective 10 years from now. The Supreme Court may change it or the Congress may change it.

Mr. CORBETT. Your point is we can write general principles but not specific rules; is that correct?

Mr. KEEFE. Well, I think you can announce a policy. Now, maybe the wisdom of Congress in writing that policy now may prove to be correct or may prove to be in error 6 months from now or a year from now. If so, Congress has the capacity to recognize changing conditions and to rewrite it.

Mr. BLOOM. Mr. Keefe, your 12 minutes are up.

Mr. KEEFE. I assure you it was not because of my desire that I responded to this cross-examination.

Mr. BLOOM. I thank you and the committee thanks you very much. You were very generous in giving your time to the members of the committee.

Now, I have the great honor of presenting Mr. Castle. I know Mr. Castle will be able, from his past experience and knowledge of affairs of government, to give us some very enlightening testimony.

### STATEMENT OF WILLIAM R. CASTLE, FORMER ASSISTANT SECRETARY OF STATE

Mr. CASTLE. Mr. Chairman, may I read first a very short statement which may be a basis for the questions you want to ask? My background is that I came to Washington during the war and entered the State Department in January 1, 1919, and remained in the State

Department until March 3, 1933, so I have a very long experience in international affairs.

Mr. FORD. What business or profession are you engaged in?

Mr. CASTLE. I am not in anything at the present time.

Mr. FISH. I would like to bring out for the benefit of some new members here that Mr. Castle has been Under Secretary of State and also Ambassador to Japan.

Mr. BLOOM. Proceed, Mr. Castle.

Mr. CASTLE. The question of neutrality seems to me not a political issue. Different members of the Republican Party look on the issue differently and the same thing is true of the Democratic Party. What I say, therefore, in answer to your chairman's request that I appear before the committee, is said because I was for 15 years in the Department of State, not because I happen to be a Republican.

In my opinion, the only rules of neutrality which can hope to be of permanent value must be in the nature of international agreements. Purely local legislation on a general international subject is likely to be confusing. In details, however, any nation may usefully adopt, for the purpose of lessening the danger of war, special legislation not in conflict with international agreements. That, I take it, is the purpose of any legislation which may be adopted now.

There is certainly a feeling in this country that war in Europe is inevitable, either shortly or within the next few years. There has recently grown up the feeling, fostered by many suggestions from official sources, that when such war occurs, the United States is certain to be drawn in. This is not necessary and, therefore, such claims are merely war propaganda. When, and if, war occurs in Europe, it will not be, as is repeatedly asserted, a war of the dictatorships against the democracies. It will rather be an attack by the have-not nations on the nations which have something the others want. That the question of democracy is not involved is shown by the fact that Germany appears most likely to attack Russia in order to be able to draw on the natural resources of the Ukraine for food. And Russia is as much a dictatorship as is Germany. There might conceivably be a clash between Italy and France for a few square miles of desert territory but that would surely not be a reason to draw in the United States. In other words, what I am trying to point out is that war in Europe, if it comes, will arise from the age-long rivalries of the European nations. George Washington was right when he urged the United States to keep itself free from these rivalries. The necessity of keeping free is as great today as it was then. Anything that Congress can do toward this end should be done.

It is obvious that if this war occurs every attempt will be made to bring in the United States. It is obvious, also, that the emotions of our people will be deeply involved on one side or the other. It is, therefore, clear that any legislation which will prevent an increase in the violence of our feeling must be helpful. Certain things in the present neutrality law have this purpose. For example, I thoroughly approve the prohibition on American citizens against travel on belligerent ships. In almost every law, some man has to give up something of his freedom of action for the good of the majority. I think that prohibition against loans to the belligerents may be equally wise, although why anyone should want to make loans after our experience



in the last war it is difficult to see. I consider it, on the other hand, extremely unwise specifically to give to the President authority to make decisions beyond those normally given him under the Constitution and expected of a chief of state under international practice. Such decisions might mean, as is the case under the present neutrality law, that the President by his sole action could put us into war. When legislation somewhat of this nature was suggested during the last administration, I urged President Hoover strongly not to accept the responsibility. Congress, and Congress alone, should have the authority to commit this country to entering a war.

New legislation must keep in mind two or three principles. It must be flexible in details. We cannot possibly tell what conditions will be like a year from now, or even a month from now. It must not be the kind of legislation which will answer, in advance, the questions which will be asked by foreign nations of exactly what we shall do at a particular time. Lack of knowledge as to our attitude is a real deterrent for belligerently inclined nations. Legislation should take into account the normal sentiments of the American people. For example, a law prohibiting shipments to belligerents might adversely affect only one side, and that the side in which the American people are interested. It would be better, therefore, not to prohibit such shipments, but rather leave ourselves free to impose a prohibition if we desire. Freedom to trade with all belligerents is technically just as neutral as prohibition of trade with them all.

In other words, I believe that the United States should depend primarily on the recognized international rules of neutrality, adding, for our local use, regulations which, while they are in accord with the main principles of neutrality, might well add to the possibility of keeping this country out of war.

Mr. JOHNSON. If I understand you correctly, Mr. Castle, your view as to what is best to be done would be to have prohibitions as we now have against Americans traveling on ships of belligerent nations, and also deny the making of loans or credits to belligerent nations? Is there anything else you would do, or would you just repeal everything else in the Neutrality Act?

Mr. CASTLE. I think the general principles of neutrality acknowledged by the whole world cover almost everything else. I think, for example, I always personally have been in favor of prohibiting the shipment of arms and munitions because I do not like to be helping out the slaughter of the rest of the world.

Mr. JOHNSON. I know. It is the same as a *malum in se*.

Mr. CASTLE. But what I do feel in connection with arms traffic is, it ought to be some kind of international agreement rather than a purely local agreement.

Mr. JOHNSON. You believe, do you not, that the Munitions Board we have controlling the exportation of arms should be continued?

Mr. CASTLE. I think that is an excellent thing and it should be continued, by all means.

Mr. JOHNSON. But, so far as prohibiting the exportation of arms to belligerent nations, you doubt the wisdom of that because, as you say, the failure to declare what we are going to do is a deterrent to war-inclined nations?

Mr. CASTLE. It is certainly a deterrent to war-inclined nations.

Mr. JOHNSON. In other words, if we had no law now prohibiting the exportation of arms to belligerent nations you think that might be a deterrent to the outbreak of war in Europe at this time?

Mr. CASTLE. I think it might be very strongly so.

Mr. VORYS. With reference to your statement that we must not have a policy that is known in advance. It has been expressed, as I have seen it, that we must not play poker with our cards face up. On the other hand, why should the knowledge of our foreign policy be likened to a poker game? Mr. Healy yesterday pointed out that the mere fact that we had the Monroe Doctrine, that it had been stated, and anybody could read it, was in itself a tremendous deterrent to action in this hemisphere. Now, why would not a clear statement of what we will do and what we will not do be a clear deterrent up to the line of what we will do. And then, we should not attempt to play poker and let anybody—Congressmen, Presidents, or anybody else—attempt to place us into what might be a war. I confess I do not get your point, or anybody else's, when they talk about our playing international poker. I think we have always lost when we have tried it.

Mr. CASTLE. I do not think I used that phrase myself. I do not think we have ever played international poker.

Mr. VORYS. Aren't we doing it now?

Mr. CASTLE. No. I do not think we are doing it now. What I mean is our policy in detail, under specific situations; no attempt should be made to determine that policy and announce that policy in advance. The Monroe Doctrine is a very big policy. The policy that we intend to keep out of war is another big policy. There are a great many fundamentals. The good-neighbor policy is a fundamental thing in the whole of our diplomatic history. Now, those things we want to stress all the time, and all I am worrying about is the attempt to say specifically what we are going to do under specific conditions because then it gives a nation an opportunity to prepare for what we are going to do.

Mr. FISH. Mr. Chairman, I take it Mr. Castle wants to see the modification of the cash-and-carry plan, and, as I take it, he wants to do away with that prohibition against the use of American ships to carry goods to belligerent nations; isn't that correct?

Mr. CASTLE. I think on the whole—yes. I have always been very much worried about the complete disaster to American shipping that will be the inevitable result of cutting out all American ships. After all, if a nation were forced to pay for what it bought before taking it away or before sending it away, and then the things were sent in fully insured American ships with the perfectly definite statement on the part of the Government that if those ships went to a belligerent country or went through a war zone we would take no responsibility, I do not quite see why that should put us into war any more than it brought Norway or Sweden into the war during the Great War. But the cash-and-carry policy, even as it stands, or as it stands in Senator Pittman's bill, seems to me much less dangerous than a great many things that are in the present neutrality bill. For example, I consider it very dangerous to permit the President to say when a state of war exists. For example, when Italy went to war with Ethiopia the President instantly the moment Italian

troops crossed the Ethiopian frontier declared a state of war existed. I said at that time, "That's grand. Now that is going to be a criterion for the future. When troops cross the borders of any nation it will mean there is a state of war." Yet it has gone on in China and Japan all this time, thousands of troops have crossed the borders of China and nothing is done. In other words, that kind of proviso gives the President a chance to use the law in favor of the nation he thinks this country wants to favor. Now, if you call it a neutrality law you should not do that.

Mr. FISH. I understand that Mr. Castle is opposed to giving the President the power to determine the aggressor nation because that must be followed by certain economic sanctions and punishments which will result in war as an unfriendly act?

Mr. CASTLE. It would be unneutral. Furthermore, those economic sanctions in the course of history have practically inevitably meant war. I do not know of many cases where they have been imposed without war.

Mr. FISH. Another question which I want to ask Mr. Castle, according to his experience in the State Department, on a matter of vital interest to all the members of this committee regardless of party, and that is the power of Congress—the right to define policies on foreign affairs—whether we have that power or whether our power is superior, or whether we are taking away some power from the President. I would like you to make a few remarks with reference to our powers.

Mr. CASTLE. I think under the Constitution the President actually has it in his power to conduct foreign relations. Congress cannot appoint ambassadors, Congress cannot make treaties, which, after all, is the basis of most of our international relations. On the other hand, policies primarily affecting the whole country, such as the question whether or not we shall go to war and whether we shall support one side or another—it seems to me that must be in the hands of Congress alone. Otherwise this would not be a democratic country any more. It must be in the hands of Congress. The President can suggest anything he pleases to Congress, but it is up to Congress, in my opinion, to make decisions.

Mr. RICHARDS. I would like to know your conception of the latitude that the President has under the Constitution in handling matters of this kind. I would just like to know how far you think it goes. You said it was just to make suggestions to Congress. Do you think that is about as far as it should go?

Mr. CASTLE. In matters that relate to the possibility of war; yes. Of course, the President has a perfect right under the Constitution to break diplomatic relations. He has a perfect right to renew diplomatic relations without consulting Congress. And it is fair to say that the breaking of diplomatic relations is very apt to lead to war.

Mr. RICHARDS. Well, any diplomatic move on the part of the United States, through its regular channel, the Department of State, might possibly or conceivably lead to war.

Mr. CASTLE. It might conceivably lead to war. And it might irritate other nations to the extent of attacking us. And then it would be up to Congress to decide whether that is an act of war or not.

The President would have no right, for example, to send the military forces of the United States outside of the country to attack another country without the consent of Congress.

Mr. VORYS. Mr. Castle, right at the beginning of the Pittman bill is the language [reading]:

Whenever Congress shall by concurrent resolution find—or whenever the President shall find—there is an undeclared war, the President shall forthwith issue a proclamation.

And just before that it states:

Whenever war is declared he shall issue a proclamation.

Do you consider that this is sufficient? Could there be any further limitation on the powers of the President than is provided there?

Mr. CASTLE. If you are going to keep the present neutrality bill, that seems to be a perfectly satisfactory wording.

Mr. VORYS. You have to have something to start any sort of neutrality law, some sort of proclamation or other. How can you start if you are going to have nothing?

Mr. CASTLE. That refers merely to the question of an undeclared or a declared war. It does not refer to the whole bill. When it comes to a decision to say whether there is a state of war, I think that wording is perfectly satisfactory.

Mr. JOHNSON. Mr. Castle, what we want is, of course, to pass legislation that will keep us out of war. That is the prime purpose of the legislation. Neutrality may be a misnomer as to legislation passed; but we also expect, of course, by keeping our country out of war—don't you recognize that the nonexistence of war, of course, obviously would solve the problem so far as our involvement is concerned? If we could take any legislative action here that would tend to deter or prevent the outbreak of a general war, that would come nearer to insuring peace in this country than any other kind that we could write, wouldn't it?

Mr. CASTLE. Yes. I must admit I cannot think of any such law that would possibly help.

Mr. JOHNSON. No. But you said a moment ago that the repeal of the exportation of arms and implements of war might be a deterrent to the outbreak of war.

Mr. CASTLE. Yes. I think it might.

Mr. JOHNSON. We should amplify that because of the fact that Mr. Vorys in his questioning of you—he wanted to know what you meant by showing our hand, and why that would be effective. I think in amplification of that reply you would probably answer Mr. Vorys' question.

Mr. CASTLE. Well, take that particular case. It seems to be the general impression that if war starts it will be started by Germany. Now, if Germany knew, if Germany were sure in advance that under no circumstances, if war started, would we send any arms and ammunition to England and France, let us say, Germany might be much more willing to start a war than if she did not know what we were going to do.

Mr. BLOOM. Well, if we had a neutrality law and laid down the rules of our neutrality, and then after a war started we should

change the rules, what effect would that have on our relationship with Germany?

Mr. CASTLE. I think changing the rules in the middle of the game is a very, very dangerous thing.

Mr. BLOOM. Yes.

Mr. CASTLE. I did, in that statement, admit the possibility of it. And as I read it it scared me because I feel any change of the rules in the middle of the game or in the middle of the war is very dangerous.

Mr. BLOOM. But, Mr. Castle, I believe you stated that a neutrality law should be a flexible law. Now, if you are going to make a neutrality law flexible who is going to change it; and if we do change it, in making it flexible, what would be the results with reference to our foreign relations by changing the rules. I believe you stated that.

Mr. CASTLE. I said something about flexibility, I remember. I said it must be flexible in details.

Mr. BLOOM. Yes. Now it is flexible.

Mr. JOHNSON. Illustrate.

Mr. BLOOM. Yes. As Mr. Johnson says, elucidate.

Mr. CASTLE. Let me see if I can do that. I think what I had in mind was primarily that we must not make such rigid laws of neutrality as to what we are going to do in certain circumstances that we shall be tied down when conditions immensely change. Now, can't you imagine the possibility that in the middle of the war, or after a war started, or even before it started a nation which we considered thoroughly friendly and looking at the world in the same way we did might have a revolution and become completely "red" or completely reactionary. Would we want to be so tied down by minute rules that we should have to support, morally at least, that nation as against another? I do not think we would.

Mr. BLOOM. Well, with your vast experience in reference to foreign affairs and such matters—in your experience in the State Department in peacetimes you generally proceed under the plan of impartial dealings with foreign governments. Is that not the fact?

Mr. CASTLE. Surely, you try to deal equally with all the nations with whom you are technically in good relations.

Mr. BLOOM. But you have no law which lays the rule down for you to deal impartially with these nations in peacetime, have you?

Mr. CASTLE. No. It is the custom of the centuries which has become practically the equivalent of law.

Mr. BLOOM. All right. Now, why should not the same plan be adopted in wartime? Why should we not be impartial in wartime just the same with the foreign nations as we are in peacetime?

Mr. CASTLE. I think we should be.

Mr. BLOOM. All right. Then if we are going to be impartial in wartime why should we lay down a set of rules when you have stated in your paper that the international laws of neutrality apply? That is a fact, is it not?

Mr. CASTLE. That is a fact.

Mr. BLOOM. Well, if we have international laws of neutrality and they apply, and if we are going to lay down or pass a rule here of neutrality, and then something starts and either the Congress or

the President or someone is going to say, "Well, now, it's the seventh inning and we are going to change the rules," wouldn't that fact alone bring us nearer to war than anything else we could possibly do?

Mr. CASTLE. I think it would. Obviously, I have not made myself clear, because I should like to see the Neutrality Act scrapped and base our own actions on the international rules of neutrality. But what I was trying to say was, in doing away with our local Neutrality Act and going back and depending on international rules I should also be glad to see now certain local rules adopted which would be likely to help keep us out of war, such as, for example, no traveling on belligerent ships.

Mr. BLOOM. All right. We concede that. What else?

Mr. CASTLE. You mean what other rules?

Mr. BLOOM. Yes.

Mr. CASTLE. Well, as I said, no loans to belligerents, if you want. That, however, is much more for the sake of this country than it is to keep us out of this particular war because we cannot afford endlessly to support the world.

Mr. BLOOM. Now, Mr. Castle, in a minute I will stop because I know there are other gentlemen here who would like to ask questions. Those two thoughts that you just gave to the committee are what we can do ourselves?

Mr. CASTLE. Exactly.

Mr. BLOOM. Now, is it not a fact that most of the other rules are dependent upon the foreign nations? They are the ones that are going to say whether our rules can be carried out or not because they must do it, not we. But those two specific things we can lay down in rules that we want, so far as our Government is concerned. But if we are going to be impartial why not meet a situation as it arises? I wish, Mr. Castle, although I want you to continue as long as you want, I wish you would have stopped when you said you would prefer to have no Neutrality Act at all, because I felt that was a wonderful statement. But the idea is this: If we lay down a set of rules and we take Mr. Pittman's amended bill, H. R. 5575, now in Mr. Pittman's amended bill, let me read this to you, Mr. Castle:

That whenever any foreign state or states declare a state of war to exist between or among two or more foreign states, the President shall issue a proclamation naming the states involved.

Now, I just want to add to that this thought: That if Germany today should say that a state of war exists between Japan and China, according to the amended bill of Senator Pittman then the President would have to issue a proclamation that a state of war exists and do whatever other things are called for in the bill. Is that not a fact?

Mr. CASTLE. Certainly that is the fact, if you adopt that bill.

Mr. BLOOM. Then we are in this position that Albania, or Russia, or any other nation can say that a state of war exists today between China and Japan and then the President must issue this proclamation and these nations—China or Japan—will say, "No. What we are having is merely an incident," I believe that is what they call it, is that right?

Mr. BLOOM. All right. They will say, "No, it is only an incident over here." Germany will say, "No; a state of war exists." Now,

why should we legislate to place ourselves in the hands of and in the power of a foreign nation, that they should say what we must do?

Mr. CASTLE. I do not understand that that wording means if State A says a state of war exists between China and Japan we must agree.

Mr. BLOOM. It says so.

Mr. CASTLE. Obviously, what he means is, if China and Japan declare they are at war then we will have to admit it.

Mr. BLOOM. What he means is one thing and what it says in the bill is another thing. We will have to go to the Supreme Court to leave them out. But he says, "Whenever any foreign state says a state of war exists," not whether we say it or anyone else says it.

Mr. JOHNSON. It should be a declaration between the belligerents and not by third parties.

Mr. KEE. We are not going to adopt that bill.

Dr. EATON. I would just like to emphasize, if I may, one principle that we have been dimly apprehending as we have gone along. It seems the general consensus of opinion is to this effect: What we need is a statement of principles, not rules but principles affecting our safety and our stand in the matter of international war, but we should not wish to put the great throes of statute law around the President or the Congress, either, as to future wars. Is that a fair statement of your position?

Mr. CASTLE. Yes.

Mr. CHIPERFIELD. Mr. Chairman, if I understood Mr. Castle correctly at the beginning of his statement he said he approved of the provisions that American citizens should not be permitted on belligerent ships; is that correct?

Mr. CASTLE. Yes.

Mr. CHIPERFIELD. Could not the same thing be accomplished by placing these United States citizens on notice that they are traveling at their own risk, and the same principle apply to American shipping, that if they did carry these citizens to a belligerent state, they did so at their own risk?

Mr. CASTLE. I said I like that clause in the act for this reason. That we get into war because of popular opinion, and there is nothing that arouses popular opinion like the death of a lot of American citizens. It seems to me that American citizens, therefore, ought to be warned against traveling on belligerent ships, and it is not enough to say we won't protect them, because all I am thinking of there is the effect of their death on popular opinion.

Mr. ALLEN. May I ask a question, Mr. Chairman?

Mr. BLOOM. Yes, Mr. Allen.

Mr. ALLEN. This may be a little aside from the point, Mr. Castle, but wasn't there a peculiar tendency on the part of the American people when hundreds of American people were killed in the Spanish civil war? There seemed to be no reaction whatsoever. They were told by our State Department that their passports were not good for Spain but they went in violation of that instruction; in other words, at their own risk. You might say they were killed and, if anything, public opinion resented the fact that they had gone in rather than the fact that they had been killed.

Mr. CASTLE. I think it did. But there they were going over and swearing allegiance to a foreign nation and fighting for a foreign

nation, and we do not like that. I would like to see any American citizen who joins a foreign army immediately cut off from his American citizenship. I think it is the Nation's business. I think that is the reason there was not such a feeling. I think if a hundred American citizens had been traveling on a ship on their legitimate business and the ship had been sunk by one side or the other of the Spanish war feeling would have been pretty bitter.

Mr. IZAC. Mr. Castle, you do not mind having a prohibition on foodships either then, do you, going to a belligerent nation laden with food for the civil population, let us say, provided that shipping is carried in American bottoms at the shipper's risk?

Mr. CASTLE. I do not object to its going, you say?

Mr. IZAC. Yes.

Mr. CASTLE. No.

Mr. IZAC. That is part of your statement: You agree we should have freedom of the seas?

Mr. CASTLE. Theoretically, yes.

Mr. IZAC. And that people going abroad in our bottoms or any other bottoms with their goods do so at their own risk?

Mr. CASTLE. At their own risk; absolutely.

Mr. IZAC. Don't you think that is the surest way for us to arouse popular and public opinion in favor of those nationals and those shippers against the country whose submarines sink those ships and those nationals of ours?

Mr. CASTLE. That is a danger and there is that danger.

Mr. IZAC. But you would still permit it?

Mr. CASTLE. I do not think it is a very serious danger. During the war we armed our ships—during the last war, I mean. And we never said they went at their own risk. We sent them off to do their jobs on the high seas or anywhere else and said "We are going to protect you."

Mr. IZAC. But now you would say, "You go at your own risk"?

Mr. CASTLE. You go at your own risk. And the only reason they would ever go would be to make a profit.

Mr. IZAC. That is right.

Mr. CASTLE. I think the Nation would realize that.

Mr. IZAC. Don't you think a reaction in the minds of Americans would be against the country that shot them down or sank their ships?

Mr. CASTLE. I think so.

Mr. IZAC. It would be the surest way to get us into war.

Mr. CASTLE. I think we are lessening the risks, not doing away with the risks. We are lessening them greatly.

Mr. IZAC. Would you be satisfied to see us restrict our shipping to the Western Hemisphere in case of a European conflagration?

Mr. CASTLE. I never had that question come up and I never thought of it.

Mr. IZAC. I believe it is the answer.

Mr. CASTLE. It may be an answer. Remember that we need an enormous number of things that come from places outside of the Western Hemisphere.

Mr. IZAC. That is correct. The strategic materials we could accumulate, in my opinion, would be less than a billion dollars worth.



Mr. CASTLE. It would be a good way to spend a billion dollars.

Mrs. ROGERS. Some countries could give us some of the materials for some of the money they owe us.

Mr. BLOOM. That is an excellent idea.

Mr. CASTLE. If Congress can get it.

Mrs. ROGERS. Do you think it is possible for us to keep out of war if there were a great international war?

Mr. CASTLE. A war that would last a long time? I do not think we could keep out of it, because I think popular opinion in this country would be so tremendously stirred up eventually that popular opinion would demand going in. I think we could keep out of it and we ought to keep out of it so far as any official action is concerned until that tremendous roar from the populace arises. If such a war should be a reasonably short war I think we could keep out of it, because I think we could restrain popular opinion. I think we ought to have exceedingly strict laws about propaganda, foreign propaganda.

Mrs. ROGERS. Which is going on now to a tremendous extent?

Mr. CASTLE. Yes; it is going on now to a certain extent.

Mrs. ROGERS. More than ever before.

Mr. CASTLE. Yes.

Mrs. ROGERS. I suppose that, temporarily, our trade would be greatly increased in the Western Hemisphere if there were an international world war?

Mr. CASTLE. Yes; in the export trade it would be.

Mrs. ROGERS. It would be?

Mr. CASTLE. Yes. On the other hand, there are many things in the Western Hemisphere that they have to sell that we cannot take. I think we want to remember that the Monroe Doctrine is a very fundamental thing in our national law, and that we must stick close to it. I notice Mr. Fenwick was talking before the committee the other day. I happened to speak from the same platform with him in Philadelphia, and he thinks the Monroe Doctrine has been rather put out of the picture by the good-neighbor policy, and he said in his talk, "I do not see why Mr. Castle is so insistent on the Monroe Doctrine." He said, "After all, that includes only the Western Hemisphere." Now, as a matter of fact, the Argentine is much farther away than Czechoslovakia. I think we should extend the Monroe Doctrine to Czechoslovakia.

Mr. BLOOM. Where is that?

Mr. CASTLE. I do not know. Then he also said it should be extended to the Hawaiian Islands, which annoyed me, being an Hawaiian.

Mrs. ROGERS. We did not have any merchant marine during the World War to speak of, did we?

Mr. CASTLE. We had very little.

Mrs. ROGERS. That changes the picture a little at the present time.

Mr. CASTLE. Yes.

Mr. SCHIFFLER. Mr. Castle, you feel we ought to adopt a policy and enact legislation that would alter our position with respect to the traditional policy of freedom of the seas which would mean a restriction of what we have always asserted to be our rights upon the high seas?

Mr. CASTLE. Of course, refusing to let Americans travel on belligerent ships would be, in a way, restricting that policy.

Mr. SCHIFFLER. And also withdrawing protection of our shipping going into foreign waters?

Mr. CASTLE. Yes.

Mr. BLOOM. Are there any further questions?

Mr. JOHNSON. Yes; I have a few more questions.

I think there are probably two reasons why the sentiment more or less demands the prohibition of the exportation of arms. One is because of the idea that it is shocking and revolting that our people should send destructive implements to destroy life abroad, and the other is a great many writers and others have enunciated this idea that seems to have taken root, that the manufacturers of arms and those who profit in war are encouraging war. If you remove profit you remove the cause of propaganda. Of course, that is a mere guess, but with reference to the idea that the profit that people get out of war actuates them to encourage war, people want to try to eliminate production for profit with reference to arms and also the profit in loans. What part does that play, do you think?

Mr. CASTLE. I do not believe for a moment that any great arms manufacturers would encourage a general war for the sake of profits that they would make out of it, because in the long run they would lose infinitely more than they would make. I am afraid it may be true that some arms manufacturers of none too good reputation have encouraged little local wars between small, unimportant states for the sale of arms. I am afraid that is true, that they have encouraged revolutions and that sort of thing.

Mr. JOHNSON. That is, in some of the smaller countries?

Mr. CASTLE. Yes; in some of the smaller countries, but I cannot believe that any arms manufacturer would be so crazy as to do anything to promote war.

Mr. JOHNSON. Your long experience in the State Department prompted me to ask that question, because you have had an opportunity to observe it at closer range than the other gentleman who has spoken on those questions.

Mr. CASTLE. We have never had any evidence of that except in certain cases where we suspected that they were trying to bring about revolutions in some of the little countries.

Mr. RICHARDS. I was interested in your remarks about the flexibility of any laws along this line. Now, it is my understanding that any flexible law always carries with it an administrator of the law, or it presupposes a constitutional administrator of that law. Now, would you think along the lines you have suggested that the President, under his Constitutional powers, would be the administrator of the flexibility of the law?

Mr. CASTLE. Clearly. You cannot take away the President's Constitutional powers, and you do not want to.

Mr. VORYS. As I understand it, you say, first, that we must have a very general flexible law, and, second, that any change in the law such as making it specific or anything else during the time of emergencies is an added cause for trouble. Now, it seems to me you have stated a dilemma yourself that cannot be solved if we should attempt to follow your advice on both statements.

Mr. CASTLE. I am sorry that I used the word "flexible." It is a bad word. It did not fit what I meant. What I said is that I felt we were unwise to—we would be unwise to enact laws to cover specific cases at special times because conditions might change, so that those laws would not be applicable. I should not have said "flexible" and, so far as the fundamentals are concerned there should not be any flexibility at all.

Mr. BLOOM. Would you say that it should be rigid?

Mr. CASTLE. A rigid law that would uphold the Monroe Doctrine, and so forth, yes; but we do not have to do that. We do not have to enact any legislation.

Mr. JOHNSON. It is easier to describe the kind of a law we should have than it is to write it.

Mr. BLOOM. What word would you use if you do not want to use the word "flexible" and you do not want to use the word "rigid"?

Mr. RICHARDS. How would "elastic" do?

Mr. CASTLE. It would be worse.

Mr. BLOOM. You do not want elastic.

Mr. CASTLE. I do not think you want to describe it at all, because, as I said at first, I think general international relations of neutrality ought to guide this country as they always have in the past.

Mr. BLOOM. Mr. Castle, you wrote that paper, and you read it very carefully before you came here. You must have had some thought in your mind when you used the word "flexible." I have a very high regard for your opinion, but when you use the word "flexible," well, I do not exactly think it applies.

Mr. RICHARDS. He abandoned the word.

Mr. CASTLE. Yes.

Mr. RICHARDS. He repudiated it.

Mr. BLOOM. No; he has not abandoned it. The word "flexible" appears in the record.

Mr. RICHARDS. Maybe he wants to take it out of the record.

Mr. FISH. Mr. Chairman, if there are no more questions there are other witnesses here to be heard.

Mr. BLOOM. Yes; there are, Mr. Fish.

Mrs. ROGERS. May I just ask one more question, Mr. Chairman?

Mr. BLOOM. Yes, Mrs. Rogers.

Mrs. ROGERS. You are familiar with the Supreme Court ruling in the *Curtiss-Wright airplane case*?

Mr. CASTLE. Recently, you mean?

Mr. JOHNSON. That was in December 1936.

Mrs. ROGERS. Yes; it was a few years ago. There it was indicated that the Supreme Court thought the President had a power that superseded the power of Congress. Do you agree with that?

Mr. CASTLE. Along what lines?

Mrs. ROGERS. There was an embargo, I think, of arms.

Mr. CASTLE. I do not remember that ruling.

Mrs. ROGERS. An embargo of arms, including airplanes, to Uruguay.

Mr. CASTLE. I do not remember the ruling; I am sorry.

Mr. BLOOM. Are there any further questions? Mr. Castle, the committee feels very much indebted to you for your very enlightening and flexible remarks.

Mr. CASTLE. Thank you, Mr. Chairman, and gentlemen of the committee.

Mr. BLOOM. The committee will now ask Dr. Eaton to introduce the next witness.

Mr. EATON. Mr. Chairman, it is my great pleasure and honor to present the next witness, Mrs. Thomas W. Streeter, of Morristown, N. J., a very distinguished constituent of mine, and a lady who, in her public service, represents the best, perhaps, of our American life. Mrs. Streeter.

Mr. FISH. Mr. Chairman, may I inquire whether you expect to hold hearings this afternoon?

Mr. BLOOM. No; I think we will go as far as we can this morning and then adjourn.

#### STATEMENT OF MRS. THOMAS W. STREETER, MORRISTOWN, N. J.

Mr. BLOOM. Mrs. Streeter, will you please give your full name.

Mrs. STREETER. Mrs. Thomas W. Streeter.

Mr. BLOOM. Whom do you represent, Mrs. Streeter?

Mrs. STREETER. I do not believe I represent anybody, sir, except private citizens in general.

Mr. BLOOM. The New Jersey people?

Mrs. STREETER. I think, perhaps, I better not speak for any organized groups since they have not authorized me, but I have talked with a great many people whose general feeling seems to be much the same as my own on this subject.

Mr. BLOOM. Proceed.

Mrs. STREETER. Mr. Chairman, Mrs. Rogers, and gentlemen of the committee, I greatly appreciate the opportunity you have given me to present my views, because, in common with all Americans, I am deeply concerned as to what the attitude of this country shall be toward a war between foreign nations not located on this hemisphere.

I think, perhaps, it will be a help in straight thinking if we constantly remind ourselves of that distinction. We are not really contemplating the possibility of an attack on the United States or a war between American nations, or a war between one American nation and a foreign nation. What we are all dreading at the present time is the outbreak of hostilities between foreign nations not located on this hemisphere. We are concerned as to what our attitude toward such a situation should be.

No one can look into the future, so I do not wish to assume too hard and fast a position. Really, my chief concern is to call a spade a spade and help to make the situation so clear that the American people will know, step by step, where they are headed and why. Then they can decide whether or not they wish to take a given step; and their informed decision will be good enough for me. Only, having lived through one war, I do not want to see them committed by confusion of their minds or by the words or actions of a few individuals to a course which they really do not wish to pursue.

I was very much interested in Mr. Keefe's and Mr. Castle's statements, but my conclusions lead to Mr. Castle's rather than to Mr. Keefe's conclusions.

My first suggestion to clear the air is that the present Neutrality Act be repealed. I advise this because it has proved impracticable

and not suited to modern conditions, and I am not sure the American people want it. I base this remark on the fact that there has been no very great protest because it has not been invoked against China and Japan.

In the second place it tries to apply certain rules automatically to an unknown future condition. That point has been brought up several times today.

In the third place, it gives too much power to the President, considering the vital importance of sources of supply in modern warfare.

I would also suggest the repeal of any provisions of laws permitting trade discriminations or loans by this Government to belligerents without the consent of Congress.

But I would also take whatever action is necessary to provide that American citizens selling or delivering goods to belligerent nations or passing through territory where fighting is in progress would do so at their own risk. This has also been discussed a great deal today, and I think the situation, as far as public opinion in this country is concerned, has changed a good deal from what it was 25 years ago. At that time we still believed that this country should protect its citizens and their property abroad. We have, if you will look backwards, very largely retreated from that position of 25 years ago. We have not protected our citizens or their property very much in China or very much in Mexico and in a good many other places. If it were understood beforehand that people travel at their own risk and shipped goods at their own risk, I do not believe there would be any great explosion or resentment from this country if something happened to them.

As I understand it, the United States of America would then be legally neutral, because its citizens would be free to trade with all nations alike, and its Government would be not officially involved. I think this is the course least likely to involve us in a foreign war, and, therefore, it is the course I favor most.

However, I can see that a condition might arise where American sympathies were so strong that we might wish to discriminate for and against specific belligerent nations in the matter of trade. This is not "neutrality," but a definite and valuable help to one side; and so may well be considered an unfriendly act by the other side, and eventually lead to our military participation in a foreign war. I feel that we should not embark on such great discrimination without realizing that it is a form of war; and, therefore, this power should be vested in Congress, where the power to declare war now rests.

I do not believe such a law can be written in general terms and applied automatically in the absence of Congress. I believe the matter sufficiently important for Congress to be called in special session if necessary; and specific proposals affecting specific nations could then be made to it by the President and decide on the existing merits of the existing case.

I would favor the passage of such a war-trade-preference act, whereby the President, with the consent of both Houses of Congress, could cut off all trade from one specified group of belligerents and give preferred treatment to another group of specified belligerents, always providing that we take such a step with our eyes open to the probable consequences.

I emphasize that last fact because, in Mr. Castle's discussion it was made clear that if we changed the rules in the middle of a war we were certainly taking sides, giving very definite provocation, and we must realize that, and I hope it would be a deterrent to our taking any such action; but if we are prepared to take it with our eyes open it is always something we could do, provided our sympathies were aroused to that extent.

Mr. IZAC. You do not believe in the present Neutrality Act, I gather from your statement?

Mrs. STREETER. No, sir; I do not think it is very workable.

Mr. IZAC. Wherein has it failed up to the present time in aiding the purpose for which we passed it, keeping this country out of war?

Mrs. STREETER. Well, it has not been applied in the most flagrant case, the war between China and Japan.

Mr. IZAC. Of course, there are other reasons, namely the "open door" to China, and our treaty relations. It would hurt us very materially if we did declare that war existed, and it would forever, in my opinion, close the "open door" to China. We still hope we can keep that door open. As far as I am concerned, I believe the present Neutrality Act has done one thing that the American people will thank us for, and that is in spite of the sinking of the *Panay* and other reasons which might, in the hands of another President, have plunged us into war, we kept out of war, and I claim the Neutrality Act kept us out of war.

Mrs. STREETER. We certainly kept out of war, but not necessarily because of that. I think perhaps the great objection, and the general feeling in this country that we wished to stay out of war, was responsible for that.

Mr. IZAC. Take again another instance, the war in Spain. We had all kinds of propaganda brought to bear on this committee on two different sides favoring the Loyalists and in favor of the other side. That Neutrality Act, in my opinion, kept us out of trouble there. We lost a few American boys because they went over and volunteered to fight, but think of the millions we would have lost if we had gone over there and fought with Germany and Italy in a war on foreign soil, which is what it was. I claim the Neutrality Act kept us out of that war. So I think it has served its purpose, and if you can show us that it has not, we had better change it. That is why we are having these hearings to find out what we can do to better conditions and make less likely the danger of our entering into a war.

Mrs. STREETER. I think that is the purpose we all have in mind.

Mr. IZAC. Yes.

Mrs. STREETER. I think the statement that it is the Neutrality Act that kept us from sending American soldiers over to Spain is perhaps covering a great deal of ground.

Mr. IZAC. It helped, though.

Mrs. STREETER. But there is no sentiment in this country for such a thing, and if we had not had a Neutrality Act I do not believe we would have sent them. As Mr. Castle pointed out you are equally neutral if you ship to all countries, or if you ship to no countries.

Mr. EATON. I have a few questions, Mr. Chairman.

Mr. BLOOM. Dr. Eaton.

Mr. EATON. It is not often that I have an opportunity to question a constituent. So, I would like to ask the lady if she is a pacifist?

Mrs. STREETER. I think Dr. Eaton knows me well enough to know that I am not a pacifist in the sense that I would be willing to stand for peace at any price. Of course, we are all trying to secure peace if possible and avoid war—at least, a war involving this country—but not at any price.

Mr. EATON. Mrs. Streeter knows what war means, because two of her brothers were at the front, and one of them was killed in the World War. Do you believe that the United States can make itself responsible for the peace of the world?

Mrs. STREETER. No, sir; I do not think it is possible. There is some feeling on the part of some friends of mine in peace societies that we should not be asking whether or not we can keep the United States out of the next war, but we ought to be asking how to stop the next war wherever it is. We would have nothing to do with starting the next war, and we should not be called on to stop it.

Mr. EATON. If war develops in Europe between the democracies and the dictatorships, would the democracies be fighting our battles?

Mrs. STREETER. No, sir; that is not my feeling, sir. I think they would be fighting their own battles, and I think that is pretty clear because they did not engage in wars which have been of far closer interest to them such as the war in Spain, and Czechoslovakia, than any war in Europe would be to us. We bit on that once, and fought a war to make the world safe for democracy. Once is enough, and we should never do it again.

Mr. EATON. Then you would not be in favor of a war for the sake of slogans of that kind again?

Mrs. STREETER. No, sir; I would not.

Mr. EATON. If this war takes place and England and France are defeated, is it your judgment that that would menace our safety in any way?

Mrs. STREETER. Of course, that is the argument that is made by some people, that it would. Dr. Eaton is asking the things that I told him people had asked me about outside. That is the argument that some people make to me. They say that we should rush to the rescue of England and France because if they are defeated the Germans and other powers will be on our own doorstep next week. I think, perhaps, you could get better information on that from our military people than from myself. But, I think it is obvious even to the layman that we would be in a much better position to defend this country, and that it would be much more difficult for a European nation to come over here and attack us than it would be for them to resist a war which we tried to carry over there to them; and I do not believe that even if England and France were defeated it would constitute a military menace to this country. It might cramp our style in trade relations. That is something we cannot see entirely clearly at this time, but we have lost a great many of our export markets already. We have lost our export markets in cotton and wheat, and we have lost our markets in China, and we are probably going to have to look for new markets in any case. The price of the war would probably, as Mr. Castle has said, not be worth what we might save in the way of trade.

Mr. FISH. Is it not a fact that, perhaps, England and France might be defeated on land, but can you conceive of the British Navy being defeated by either the Italian Navy or the German Navy, which is about a third or one-fourth as large?

Mrs. STREETER. It does not seem probable.

Mrs. ROGERS. The Kellogg peace-pact countries do not declare war any more; they just fight?

Mrs. STREETER. Yes.

Mrs. ROGERS. What do you think of the situation in Albania; what did Italy do there?

Mrs. STREETER. How do you mean?

Mrs. ROGERS. Was that not war?

Mrs. STREETER. Well, it certainly has all of the earmarks of war.

Mrs. ROGERS. Under this present Neutrality Act if the cash-and-carry plan were enforced it would be pro-Japanese and pro-British, would it not?

Mrs. STREETER. Yes; and referring to the gentleman who spoke about why it was not invoked in the Chinese and Japanese situation, I do not know, but I think one reason was we did not want to invoke it because it would cut off help from the Chinese; and if you have a Neutrality Act and do not invoke the act but show favoritism to one side, that really is not neutrality.

Mrs. ROGERS. Under this act, if we were allowed to ship munitions and arms under the cash-and-carry plan, it would still be pro-Japanese and pro-British?

Mrs. STREETER. Yes.

Mr. STEARNS. You gave as one of your reasons for repealing the present neutrality legislation that you felt it gave too much power to the President. Are we to infer from that that, in your judgment, he would have less power if all present legislation were repealed and we were working under the rules of international law?

Mrs. STREETER. It would to this extent, that he now has the power to make this declaration or not, as he sees fit. There have been movements which would change that and place the power in Congress and make it mandatory on the President but under the present Neutrality Act he can do it or not, thus definitely taking sides.

Mr. BLOOM. He would have that right if we did not have the Neutrality Act anyway?

Mrs. STREETER. Pardon me?

Mr. BLOOM. He would have that right if we did not have the Neutrality Act. He could do the same thing with reference to China and Japan.

Mrs. STREETER. But he would not have the power to prohibit the shipment of arms to certain nations, and I further suggest that he no longer would have the power to raise the tariffs 25 percent, as he has just done against Germany, or to make a Government loan of \$25,000,000 as was done in the case of China. Those are all provocative acts and I would not like to have this country engage in provocative acts, because we and Congress should realize what such a procedure might involve.

Mr. BLOOM. Did he get that power from the neutrality law?

Mrs. STREETER. No, sir; but I suggest that these provisions in any other laws of that kind be repealed.



Mr. RICHARDS. In reply to Mr. Izac's question you would not admit that the Neutrality Act has kept us out of war, but you will admit, will you not, that there has been no tendency under that act so far to lead us into war?

Mrs. STREETER. I think that is true, but I think that is because of the strong general feeling on the part of the American people that we do not want to go into another war.

Mr. RICHARDS. You will admit that, even if the act has done no good, it has done no harm?

Mrs. STREETER. No; except it has shown a certain possible insincerity, I think, in the fact that we have not applied it to the Japanese and Chinese situation.

Mr. RICHARDS. Has the nonapplication of the act to the Japanese-Chinese situation had a tendency to head us into war so far?

Mrs. STREETER. No; but it has had a tendency to make people think we would not apply it in other situations abroad.

Mr. RICHARDS. But the primary object of the act was to keep us out of war?

Mrs. STREETER. Yes.

Mr. EATON. Do you have any idea that any act would have the slightest effect upon the American people if they make up their minds that they want to fight or do not want to fight?

Mrs. STREETER. Perhaps that is putting the cart ahead of the horse, I do not think a law would control the American people so much as that the people—through Congress—can control the enactment of a law in accordance with their wishes. I think Congress is responsive to the sentiments of the people more than any one man, such as the President of the United States today. That has been pointed out several times today on the other side of the argument. If people get steamed up and in favor of going to war, Congress is going to go along with them. If most of the people would go to war the rest of the people will go along with them. If the majority want war, that is all right. I think there is no doubt but in a democratic country the majority should rule and Congress is responsive to the will of the people.

Mrs. ROGERS. They will listen to the voice of their constituents?

Mrs. STREETER. Yes.

Mr. KEE. I did not quite get your position with reference to the present Neutrality Act. Are you in favor of us repealing this present Neutrality Act?

Mrs. STREETER. Yes, sir.

Mr. KEE. And in place of that rely entirely upon international law in case of trouble?

Mrs. STREETER. I would not rely on international law. I would simply proceed according to our customary behavior as far as it is possible to do so.

Mr. KEE. It would be necessary to have some rules on which to proceed. We would have to rely upon international law or enact some rules by Congress. Would you advise us to enact a new Neutrality Act?

Mrs. STREETER. No, sir; all I would advise would be the enactment of a law to say any American citizen who goes abroad or sells goods abroad and delivers them to belligerent nations should do so at his

own risk, and at the risk of the ship, and also, as Mr. Castle said, Americans who travel in belligerent ships do so at their own risk.

Mr. KEE. There are other provisions in the present act you would want to retain, would you not, with reference to loans to foreign belligerent nations?

Mrs. STREETER. Yes; prohibiting loans and also the Munitions Board.

Mr. KEE. Yes; loans and the Munitions Board?

Mrs. STREETER. But not the main body of the Neutrality Act.

Mr. KEE. I take it your chief objection to the Neutrality Act is that in his discretion the President decided he would not invoke it in the case of Japan and China. It is not the act itself, but the fact that he did not invoke it in that case?

Mrs. STREETER. That is the first objection. That was distinct favoritism and not neutrality. Another thing is, I think the American people that I have talked to, and I have talked to many of them on this subject, would not favor so much a complete embargo on the shipment of arms or ammunition, as they would unrestricted trade.

Mr. KEE. Do you not think, as a matter of fact that, in that instance it was the part of wisdom on the part of the President not to invoke it at that time?

Mrs. STREETER. I do not know. That is past history.

Mr. CORBETT. Mr. Chairman.

Mr. BLOOM. Mr. Corbett.

Mr. CORBETT. Mr. Chairman, I would like to ask the lady if I understand her properly. It seemed clear to me that she is definitely in favor of such rules as we can establish to keep us out of war, but as regards neutrality she has confidence in the future rulers of this country to do the thing which is right and just without our writing hard-and-fast rules for them here. Is that a correct understanding of your position?

Mrs. STREETER. I do not think I put it quite that way, but the President has his constitutional rights in the conduct of foreign relations as Mr. Castle pointed out. I do not know whether Congress can interfere with those to any very great extent. I have simply said that where there is a question of provocative acts that I think they should not be taken without the consent of Congress because they are the first step toward war, and Congress has the power to declare war.

Mr. CORBETT. Following along on that thought, one witness after another has appeared before us here and the impression has been left with us by some of them that we must write certain rules for the future now because those to come will not be as wise as we have been; and others have been willing to trust it to the customary traditional policies and the wisdom of the persons in charge of foreign affairs, that they can meet the situation at the time it arises. I rather gather in wanting the Neutrality Act set aside and to establish rules which would tend to prevent things which would arouse our passions such as the death of American citizens on the high seas, and the loss of American boats, and loans and things of that sort that you have confidence that the American people would take care of those situations when they arise?

Mrs. STREETER. I would like to have as few restrictive actions taken at the present time as possible. The only ones I have suggested

have been the forbidding of loans to foreign nations, and as Mr. Castle has said that should hardly be necessary, and also the forbidding of discriminations such as the raising or lowering of special tariffs without the consent of Congress, and the proviso that people trading with belligerents or traveling through areas where fighting is going on should do so at their own risk. That is all I suggest. Otherwise American citizens shall make their own decision as to whether they wish to trade with belligerent nations. Then if there arises the popular clamor which has been referred to, if that becomes sufficient, and it is the well-informed decision of the American people that we want to do more than that, and want to favor one group of belligerents and penalize another group of belligerents then I think Congress can take action on that.

Mr. BLOOM. Mrs. Streeter, the committee is very grateful to you for your contribution.

Mrs. STREETER. I appreciate very much the opportunity to appear before you.

Mr. BLOOM. The next witness is Col. John Q. Tilson, who for 22 years was a member of the House, and for 6 years majority leader of the Republican Party on the floor of the House.

#### STATEMENT OF HON. JOHN Q. TILSON

Mr. TILSON. Mr. Chairman and members of the committee, what I wish to say might be included under the head of "Watch your step," "Go carefully," and in case of doubt say "No."

Mr. BLOOM. Play safe, in other words.

Mr. TILSON. One of the older Members of the House I know served here many years, and he said he was often in doubt as to how to vote, and when he was in doubt he always made it a rule to vote "no." After going over his career later I found that that decision was usually the right one.

There is no partisanship in this question. There cannot possibly be partisanship. So, party is out of it entirely, and yet we are all agreed as to the objectives to be reached. There is the widest variety of honest opinion as to how we should reach it. Three years ago when the neutrality bill was passed, it was the belief of Congress at that time that that would help to serve the purpose in which all were interested. For my own part, with apologies to the gentleman on my right, I do not believe that it has served that purpose at all.

I think if it did anything in connection with the Spanish situation it probably did harm, and I thoroughly agree with the President in not applying it in the case of China and Japan. He has deliberately failed to execute that law. If I had been in his place I would have failed also to execute it, and that is one reason why it ought to be repealed. When I came here this morning I had in mind simply recommending that we repeal this law and then forget to put anything in its place. Such witnesses as Mr. Castle and Mrs. Streeter have rather convinced me that there are some purely domestic matters that, perhaps, ought to be put in. I shall not go into those because they were made sufficiently plain. Bear this in mind, that any law we pass ceases to have effect at the international boundary line. We can pass all the laws we please, and they will affect us if we are law-abiding citizens, but they do not affect the other fellow.

Mr. BLOOM. That is what I asked Mr. Hanson.

Mr. TILSON. There is an analogy to a poker game here.

Mr. BLOOM. But I do not play poker.

Mr. TILSON. I should not, of course, introduce a trivial thing of that sort here, but it certainly is a case of our putting all of our cards on the table face upward, while the other fellow conceals his hands and plays his cards near his chest. That is the analogy if you will allow such a humble one here.

Now, we do not care about other nations passing neutrality acts and making long statements as to what their policies will be. There has developed throughout the ages what we have called international law. We know that is not really binding. It is supposed to be, but it often does not bind nations at all, but it is the best rule that has so far been developed. What we call international law was and I think so far as the neutrality feature is concerned is sufficient. The Constitution gives the President ample powers, and I think he has ample powers and he should be given no more. It gives Congress the sole right to declare war and to raise and support armies, and I think none of those powers should be taken away from Congress. Congress should have them. Then I am not so much afraid of propaganda, as, after all, this is a democracy, and public opinion governs in the long run.

I was a Member of Congress, and I do not believe any one of this committee was a Member of the Congress, that declared war. I remember the solemn hour in the early morning when we voted on that question. There was a feeling, and we took the position, or a great majority of the Congress did, that that was the wise and the best thing to do under all of the circumstances. We may have been sadly mistaken, but it was not the result of propaganda. It was the result of public opinion, of a feeling that ran throughout the country, that it was best that we should go in there. Mr. Wilson was very strongly in favor of peace, and I think he was earnestly in favor of peace, but he was convinced that the only thing for the American people to do was to go into war, and a great majority of the American people were so convinced. We went in not to somebody else's war, as is sometimes said, but we went into it as our own war. No nation is justified in going into anybody else's war. No government would dare to declare war on another except for the interests of its own people, and that is what we thought we were doing 22 years ago when war was declared.

As I say, we may have been mistaken. If we had the light that has been shed upon the subject during the past 22 years before us at that time we might have made a very different decision. But this is a word that I would like to leave with you in regard to the action of future Congresses. Now, this Congress undoubtedly is made up of able men and women. If there were anything demanding immediate attention the country could well trust this Congress to do it. Other Congresses to come afterward we hope will be able to do likewise. I do not believe that wisdom will die with this Congress, nor that patriotism will perish from the face of the earth, or that the next Congress or the next Congress as they come through the years will not be just as wise and just as patriotic, and they will have the additional

advantage of knowing all that has happened up to the time when they are called upon to act.

Now, why not repeal the so-called Neutrality Act, and if there are some of these other matters that affect our domestic situation only, such as traveling on enemy ships or making loans, those are minor matters, but the great question of neutrality, to my mind, can be left to depend upon international law as it exists today, and the Constitution of the United States which gives the power to our President to conduct foreign affairs, and to our Congress, representing the people, to declare war, and to support the Army.

Mr. BLOOM. Are there any questions?

Mr. RICHARDS. Mr. Tilson, first let me make this observation before I ask you any questions: I do not think the poker game and the international situation are exactly on all fours. In the case of neutrality legislation it might keep us out of war, and if the trend of events show Congress next year or the following year that that law should be repealed in the interests of the United States it would be very easy for Congress to do that, would it not?

Mr. TILSON. Have you not meanwhile in a way made a commitment there that it is not very good sportsmanship to welch on?

Mr. RICHARDS. I don't think so.

Mr. TILSON. Yes; when it seems necessary or best in the light of all of the facts to do a certain thing or to pass a certain act, by all means do it.

Mr. RICHARDS. Or to repeal an act?

Mr. TILSON. Yes, sir. Let me say this as to any laws you pass here, if a few years hence the sentiment of the people should be entirely to the contrary, why you would repeal them, because they would insist upon them being repealed.

Mr. BLOOM. Are there any other questions any of the members would like to ask Colonel Tilson? Colonel, the committee feels very happy to have heard you. I know your views as expressed here today will be given a great deal of thought.

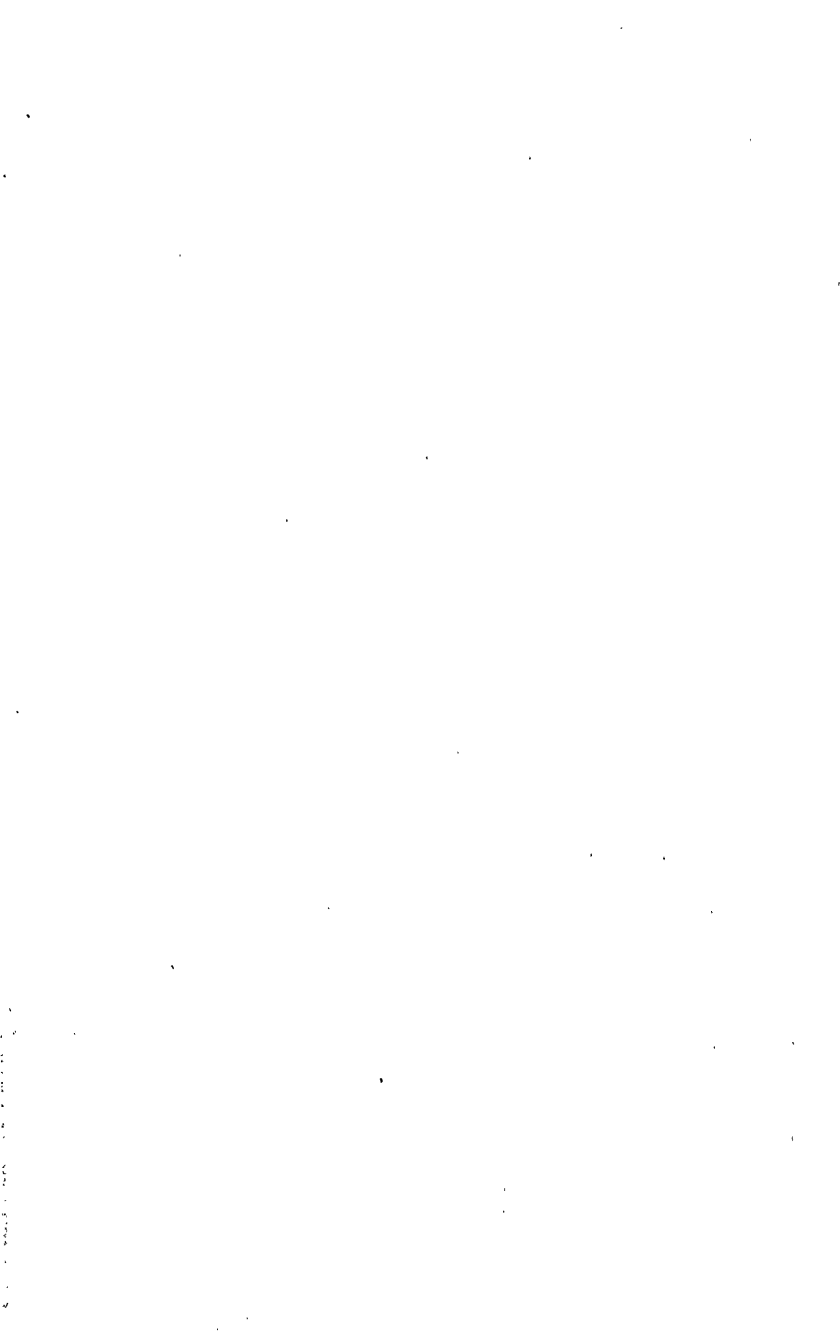
Mr. TILSON. Thank you, Mr. Chairman.

Mr. BLOOM. We thank you very much, Colonel.

(After informal discussion off the record.)

Mr. BLOOM. We will adjourn until next Monday at 10 o'clock.

(Thereupon, at 12 o'clock noon, the committee adjourned until Monday, April 17, 1939, at 10 a. m.)



## AMERICAN NEUTRALITY POLICY

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MONDAY, APRIL 17, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order for the further consideration of bills to amend the Neutrality Act.

### STATEMENT OF NORMAN THOMAS, CHAIRMAN OF THE NATIONAL COMMITTEE OF THE SOCIALIST PARTY OF AMERICA

Mr. BLOOM. The first witness today will be Mr. Norman Thomas. Mr. Thomas, as you all know, is chairman of the National Committee of the Socialist Party. He will tell you more about himself. Mr. Thomas has requested that he be permitted to proceed and read his statement and then he will be glad to answer any questions; and there are to be no interruptions while he is reading his statement.

Mr. THOMAS. Thank you, Mr. Chairman. My name is Norman Thomas, 206 East 18th Street, writer and lecturer. I am the chairman of the National Committee of the Socialist Party of America.

If you cannot refrain from interrupting me I shan't be too badly discommoded, because I have had experience in worse places.

I do not appear before you either in my own behalf or my party's as an expert in international law or in bill drafting. Certainly I do not appear before you to advocate any form of neutrality legislation as an absolute panacea for war, a sure guarantee of peace. Indeed, I do not recommend any form of neutrality as in itself perfect, free from all taint of evil. Sometimes we have to choose between evils to find which is less. There may be prices too great to pay for aid to belligerents whose cause we think in just. I agree with Dr. Charles A. Beard's statement:

The essence of neutrality is not equal treatment of belligerents in fact. The essence of neutrality is abstention from war, abstention from hostile acts by the Government and attention from changing the policies of the Government for the benefit of one belligerent or the other, after the war has begun.

It is because I believe that to stiffen and not relax the present neutrality law will greatly aid us in keeping America out of war that I appear before you.

I am not uninterested in the fate of mankind. I do not believe that we can build a wall around America to cut us off from the storms and passions which curse the world. Over and over I have,

in the years gone by, advocated the maximum cooperation in the things which make for peace. I still want to see the Government (this was written before Saturday)—I still want to see the Government of the United States declare to the world its readiness to initiate at the earliest practicable moment conferences on peace, disarmament, and the readjustment of those international economic grievances which dictators have exploited. But I am convinced that our greatest service to mankind is to prove that democracy will work, and this we can only do in an America at peace. Equally am I convinced that the disorganization of Europe and the problems of Asia can no more be solved by new American participation in Europe's or Asia's wars than did we solve them by our participation in the first World War. (You remember we got rid of that aggressor and then we got Hitler. It is possible we can repeat the experience and get worse.)

The issue in Europe is not between democracy and dictatorship. To be sure, two great democracies are on one side, and two great dictatorships on the other; but the great democracies are also empires. If France should become Fascist overnight, it would be to strengthen her national and her imperial position and the line up of powers would not be altered. In the years since the armistice, not one of the so-called democracies has served democracy when democracy might have been served without war. The victor of no alliance of capitalist national powers will save Europe, but only constructive action by the masses of European people to end Europe's disorganization and their own exploitation.

Even now there is an excellent chance that war on a large scale will be avoided in Europe, simply because of the overwhelming reluctance, both of the masses and the classes to go to a war in which—thanks largely to aerial warfare—no one knows how great will be the destruction of life, of property, of profit, and even of civilization.

But if Europe's own good sense cannot keep Europe out of war, nothing that America can or will do will serve either to deter Europe from war or to bring about the victory of righteousness.

Our economic power in the world is great, but it is not by itself decisive. The Fascist nations are planning to meet their wants by self-sufficiency plus supplies nearer home than the United States. They do not contemplate in any event a war which they cannot win, or think they can win, by their aerial superiority before the United States can possibly bring its weight to bear. This is the opinion, not only of Major Eliot, but of other competent military critics. Emphatically, threats of what America will do will not keep Europe out of war. Only a few short weeks ago our papers were beginning to write editorials about how the President's firm line, and the extensive American armament, were already having a wholesome effect upon Hitler. You remember he was quiet for a couple of weeks. The ink was scarcely dry before he gobbled Bohemia and Moravia.

To this overestimate of what America can do by economic power alone, the advocates of a discriminatory foreign policy between belligerents often add a second dangerous assumption; namely, that we shall not be drawn into military war if we engage in economic war.



One of the most dangerous statements I have read in America from any responsible source was that attributed in the press to Senator Pittman, chairman of the Foreign Affairs Committee of the United States Senate, when he remarked apropos of this situation: "Why shoot a man when you can starve him to death?" A literal policy of starving a nation is a road to war, not peace. A great deal of the bitterness and resentment in Germany which Hitler so successfully capitalized was due to the crime of the Allies and of America in continuing the food blockade against Germany even after the armistice had been signed. Nothing is more certain than that a strongly armed nation which finds itself discriminated against effectively in comparison with its opponent, will enter into a war of desperation against the nation trying to starve its children.

It should be set down as fundamental in American foreign policy today that we have no right to plan for economic warfare unless we expect military warfare. Any statement to the contrary is born either of a dangerous optimism or, in some cases, of a deliberate desire to fool the people into entering war by easy stages. I have actually heard men admit in private that they knew perfectly well there would not be any hope of restraining the dictators from war by economic threats. Who, from the platform, in my hearing, would say that some kind of economic sanctions would be sufficient?

There is another assumption very dangerous to America which bears directly on the discussion of the kind of neutrality we should enact. It is that America cannot be kept out of war. There is some disagreement how soon we must fight and whether we must fight to prevent economic strangulation or against actual physical invasion.

The argument that America is in danger of actual attack upon her home territory in any near future can be dismissed very quickly. None of the admirals or generals, so far as I have heard, who has appeared before any congressional committee, has ever argued that there is a real danger of physical invasion of the United States. For a good while to come, all the dictatorships (and for that matter, Japan) will be exceedingly busy nearer home. We have already the second largest navy in the world and have already plans to increase our general Military and Naval Establishments to a point far beyond the mere defense of American shores. No real attack can be made on America until an army can be transported. Any force which Germany could sneak across the Atlantic and land at Montauk Point could be taken in hand by the New York police. Like myself, the Germans would probably get lost in the outskirts of Brooklyn. In the April issue of Harper's Magazine, Oswald Garrison Villard has an admirable article on this subject of defense, to which I refer you.

While a great European war would add somewhat to American economic difficulties, and while national self-sufficiency is not the highest economic ideal, nevertheless, we have reason to be grateful that the United States can be self-sufficient during a European war without paying an impossible price; indeed, without paying anything like the price that war itself would entail.

It will take some planning. We should have to prevent the too rapid liquidation of foreign holdings in America in the event of foreign war. We would have to accumulate certain supplies of raw

material, trade in which might be interrupted by other people's war. As to the possible self-sufficiency of the United States in the event of world war, refer you to the forceful arguments of Jerome Frank in his book *Save America First*, or Stuart Chase in his *New Western Front* and of Prof. Charles Beard in his *Open Door at Home*.

Somewhat more weight must be given to the argument that the substitution of the Fascist powers for Britain and France and control of the Atlantic, would be to our disadvantage. It seems to me, however, fantastic to assume that therefore we should fight a sure war now in order to avoid a possible war later on. The most likely result of any long continued war in Europe will not be the triumph of either group of belligerents. It will be a general breakdown of civilization. It will be revolt against the dictators, but also, if it is a long war, it will be revolt against the French and British Empires. There is plenty of unrest in India and the Arabian countries. The survivors will scarcely be possessed either of desire or power to turn from that war to an attack upon the United States.

America can be kept out of war although it will require conscious planning, of which neutrality legislation should be a part. What can't happen is that America should get half way into a war. We thought that back in 1917. I remember when one of the most powerful Senators on the Military Affairs Committee solemnly assured me that we should not send many men to Europe and that the purpose of the conscription bill was to pick the street-corner loafers and send them abroad. We ended by sending 2,000,000 men to foreign shores.

Recently I heard an able labor leader express the belief once more that we should not send men to Europe but only keep the seas open and a steady stream of supplies going across, for which, of course, we should be well paid. There would be profits for farmers and jobs for workers; some liberties, he thought, we would lose for the duration of the war; but, especially if it could be fought while Mr. Roosevelt is still President, he expected that at the war's end, we should get them back again, much as one turns on the light by pushing a button.

Such a belief is most dangerous Utopianism. Any war in which the United States might engage, if it did not begin as a world war, would become a world war. We might easily find ourselves more preoccupied with Japan than Germany, partly because of our unnecessarily vulnerable position in the Philippines to which long ago we should have given independence. It would be extraordinary difficult for us to land an army in Asia. We might first have to sink the Japanese Navy. I suppose in time that job would be done. Certainly men in great numbers would be landed in Europe. Our own conscience, the pressure of our allies, the exigencies of the situation, would compel us to send men, as well as supplies.

No one knows where those men would be sent in the end. Any probable revolution in Berlin or Rome might scarcely be to the taste of Chamberlain and Daladier, and our boys might have to restore order in Berlin as once after the armistice they fought to restore something called order in Archangel. Or they might be sent to help put down the revolt in the empires of the so-called

democracies in India, perhaps, or Algiers, or Morocco. It would be a totalitarian war, and a totalitarian war requires in our day a totalitarian state. We had a narrow escape for our liberty in the last war and its aftermath. We should not be so fortunate again. The world has learned much of the arts of regimentation. It has grown callous to cruelty. The war would be an unpopular war. For that very reason propaganda, regimentation, and censorship would be stringent. As we well know, the War Department has complete plans for conscription, and I think I am safe in saying that that conscription will be far more drastic and successful in regard to men than in regard to wealth. War means military fascism of an indefinite duration for 180,000,000 Americans, and to a nation ravaged by its suffering and scarred by its bitter discipline, democracy will not easily return either in the hour of victory or defeat.

How are we likely to get into this war which I fear? It will not be by a genuine moral crusade for democracy or to end war any more than it was in 1917. American boys, some of them, may die happier in a dreadful no-man's land because they think they died for democracy, but it is not for that reason that our Nation will fight.

The emotional desire to police the world may help us get into the war. The Messianic complex to which men in very high office are prone will unquestionably be a factor in putting us into war. Perhaps the strongest predisposing condition for our entry to war will be our failure to conquer economic insecurity and poverty and unemployment at home. War would unquestionably give us a temporary and dreadful prosperity. The ultimate cost would be prodigious beyond calculation, but rulers and people will sometimes take terrible risks for the sake of temporary escape from their failures at home. Our President and our people are far more likely to try to reform the world because the effort to save America by a reformed capitalism has come to a standstill far short of its goal—success in providing us with freedom, peace, and plenty.

But the great reason for war will be a threat to our trade, especially to our war trade. Even our anxiety about Latin America is not because we think that the Latin American nations are all or mostly democracies. We know better. We are interested in our own protection and in our own trade. There is danger that under guise of protecting that trade we shall return again to dollar diplomacy and to economic imperialism. Even our great increase of military might may alarm South American governments so that they will seek to counterbalance it by deals with the dictators of Europe. Already Cardenas has been driven to trade with Hitler, partly because of the administration's support of the Anglo-American boycott on Mexican oil.

It is because the road to war is so likely to be the road paved by war trade that the problem of neutrality assumes such importance. To keep out of war trade is the negative, deliberately to plan peace trade at home and with peaceful nations is the positive, side of what ought to be our program.

It is the fashion now to say that neutrality—that is the present neutrality law—has failed. That is not true; it has not been tried. And in a Government which supposedly is a government of law, not

men, it is a rather disgraceful business that Congress should pass a law of such importance as the Neutrality Act and then supinely allow it to be completely disregarded. An unnecessary and essentially unneutral embargo was imposed on Loyalist Spain, but nothing at all was done against Germany and Italy, which were waging small-scale and undeclared, but very real, war against Loyalist Spain. The law was openly disregarded in the Far East and the excuse was that to enforce the law would hurt China. In reality, the United States became Japan's partner in that she supplied her with more than 50 percent of raw material necessary for a war of aggression. China couldn't get it; Japan did. It is indeed true that the present law, which is mandatory only with respect to munitions, would not have been altogether adequate, but if the President had firmly enforced the law, Congress would have been more likely to pass such additional legislation as was necessary to keep us from the shame of partnership in such vast destruction.

Two major amendments have been suggested to the law. The first, the Thomas amendment, which would permit the President with the approval of Congress to discriminate between belligerents in behalf of that belligerent or group of belligerents whose cause seems to us most just or with which our trade was most profitable. I know that that is not the wording of the Thomas bill. It would make an economic embargo a penalty on the nation adjudged to have violated some treaty—like the Kellogg-Briand Pact or the Nine-Power Pact—to which the United States was a signatory.

To this proposal there are three substantial objections: First, it holds open to the nations the idea that the United States does not really mean to stay out of war trade or out of war. It encourages their hopes and gives incentive to the propaganda of foreign nations to drag us into their wars. I was in Europe in the spring of 1937, when the risk was less than now. Thanks to my Socialist connections, I met a good many Socialists prominent in government, including Mr. Blum, who was then the Premier. From every source I found an extraordinary desire that the United States should come in and save them. There was not a person in high position that I met, or not so high, whom I talked to, but did not turn the conversation into a sort of appeal for American salvation. I really think they would have done a better job at home if they had not had a rich uncle to look to.

Second, the proposal gives far too much additional discretionary power. Instead we should curb the dictatorial (and I mean dictatorial) power of the President in foreign affairs for the sake of democracy and peace. The Thomas amendment requires that the President win the approval of Congress, but in foreign affairs that approval is usually easily won. The last Congress showed how susceptible it was to the psychological and practical pressure exerted by the administration against the democratic proposal to allow the people to vote on the wars in which they would fight. We want no increase of Presidential discretion, but rather its diminution. This is said without reference to any particular occupant of the high office, but with knowledge of the effect of such enormous power upon any man who holds it. May I add parenthetically, the more high-minded a man is the more likely he is to go on a "saving the world" job. My

fellow townsman, Warren Gamaliel Harding, was not the sort of a man likely to do that sort of thing, but others are.

The third objection to the Thomas proposal is that it is rather disingenuous in making the test of American favor the attitude of belligerents toward, let us say, the Kellogg-Briand Pact. That is a treaty which in spirit has been violated by all the powers. It is a virtual dead letter. What the proponents of the Thomas amendment desire is to have the President constitute himself a judge of the relative guilt of warring nations, and it takes a round-about legal device to achieve this aim. That is bad legislation.

The Pittman bill is, if anything, worse. It proposes that we sell the means of wholesale destruction to anybody who can come and get it and pay for it. Doubtless Senator Pittman and the other supporters of this proposal expect to help England and France, who at present are the only European nations who could come, get, and pay for any great amount of American supplies. The bill gives us an enormous stake in other folks' war.

The cash-and-carry provisions are some protection, but not enough. Let us assume that an immense war trade is built up with certain belligerents who by using all their gold in America and by liquidating all their securities are able to buy and then to transport a great amount of supplies. If the war goes on long enough, their resources will be ended and the United States will have built up an immense war trade. The pressure will be irresistible to continue that trade by going back to the kind of loans and other deals which facilitated our entrance into the first World War. The cash-and-carry provisions will be a weak barrier against this demand for continuing the fools' prosperity of war trade.

The temptation to such prosperity at all events will be great. Only the most rigorous decision to keep out, a decision made before the crisis is upon us, will avail us at all. Hence, the importance is not in merely keeping the present neutrality bill but of strengthening it. And of the ways proposed to strengthen it the one immediately most practical is the Nye-Bone amendment. Personally, I should go further and ban peacetime trade in munitions and add scrap iron and some other raw materials, in excess of a peace-time quota, to the mandatory embargo. Certainly it ought not to be possible in the future for any President to disregard the law or to have in his sole hands the power to make up a list of goods to fall under the embargo.

Nothing that I have said means that we are under compulsion in times of peace to give the same trade terms to nations at economic war with the rest of the world and to those which seek cooperation. Nothing could prevent Congress after solemn discussion, with full appreciation of the consequences, from making an exception to the law. But the expectation for us and the world should be: No economic participation in other nation's wars.

I am aware that this proposal of strict neutrality will sometimes seem to hurt a relatively innocent nation. We cannot have everything. But there is a hopeful side: If it were known that the United States would definitely keep out of war trade, that very fact might have some weight on the side of planning for peace. In any event, peace is worth the price that true neutrality would impose. An

America at peace which can make democracy work will bless the world as America cannot bless it in any war whatsoever.

Thank you.

Mr. BLOOM. Gentlemen, Mr. Thomas is ready to answer any questions.

Mr. FISH. I would like to ask a question.

Mr. BLOOM. Mr. Fish.

Mr. FISH. Mr. Thomas, would you tell the committee your views as to the suggestion of former Secretary Stimson giving the President the power to determine the aggressor nation and punish that nation through economic sanctions?

Mr. THOMAS. As my argument certainly implied I am wholly against it. I think that was not the Thomas amendment. I do not know that there is any bill before Congress proposing what I understood Mr. Stimson to advocate. The Thomas amendment comes nearest to it. I regard the Thomas amendment as preferable to the Stimson proposal. I desire to increase the restraints, not to diminish them, on the power of this President now or of any President at any time to become the judge, the sole judge, of any matter of such enormous importance that it may well mean peace or war to mankind. The only effect of a law like the Stimson or Thomas proposal in the first World War would probably have been to put us into the war sooner and not later. I am opposed to it. And I am amazed that in a democracy there should be such advocacy of it. I am afraid "democracy" is likely to become a fighting word without too much reality, because here is the essence of dictatorial determination. I do not care how righteous may be the motives of the man making the policy, it is one man deciding, unchecked, the policy in which the overwhelming probabilities are that the result will be to take a whole nation into war. And if one man can make a decision of that sort why not carry the idea further and have one man make all kinds of policies? I am against it in the name of peace and I am more against it in the name of living reality to democracy.

Mr. BLOOM. I believe, Mr. Thomas, for your information Mr. Guyer's resolution (H. J. Res. 226)<sup>1</sup> introduced in the House, is exactly the same as the Thomas resolution (S. J. Res. 67) introduced in the Senate.

Mr. ALLEN. May I ask Mr. Thomas, in reference to the present Neutrality Act, using that as a basis of discussion, will you explain please, what provision you would retain and which provisions you would strike out?

Mr. THOMAS. I would retain the provisions setting up the Munitions Control Board. I would retain all of the provisions applying to mandatory neutrality. I would strengthen the provisions which expire May 1.

Mr. BLOOM. Yes; May 1.

Mr. THOMAS. I would strengthen the provisions which expire May 1 giving the President the power to add articles. At least, I would strengthen it to the extent of giving equivalent power on its own initiative to Congress. As I already have said, ideally—not that there is anything perfectly ideal about any neutrality law—I would personally support a further provision for peacetime embargo on the sale of actual munitions of war and I would add to the mandatory war-

<sup>1</sup> See p. 622.

time embargo list certain mandatory raw materials, of which scrap iron would be the chief. At least scrap iron in excess of a quota of peacetime years should be added. I would keep the cash-and-carry provisions of the law.

Mrs. ROGERS. If this law were in effect, the present neutrality law, it would, in effect, be pro-British, pro-Japanese law, would it not, because of Japan and Great Britain having the money and the ships to get the commodities of war?

Mr. THOMAS. It would to some extent. You remember one criticism made of the law was that it originally tended to be so pro-British and so pro-French. I am of the opinion, nevertheless, if the law had been enforced, as I think the President should have, even if he did not altogether approve of it, it would have brought the matter to a head and would have got us sufficient supplemental legislation to add mandatory articles to the embargo list.

Mrs. ROGERS. As it is, the commodities of war would go to Japan?

Mr. THOMAS. Yes; that is, the raw materials to make them.

Mrs. ROGERS. You would favor a law of that sort?

Mr. THOMAS. Yes; rather than the Pittman and Thomas bill.

Mrs. ROGERS. Even though it is pro-Japanese and pro-British and pro-French?

Mr. THOMAS. Oh, no. I beg your pardon. I would favor this law as better than its repeal, even though it is, by reason of the situation, pro-British, pro-Japanese, and pro-French. But I would strengthen it, as I have already said. May I say this: I do not approach neutrality from the standpoint of being pro-anybody except pro-keeping America out of war. I cannot make that too emphatic. I think the maximum harm is being done in our country by assuming that we somehow or other can have our cake and eat it. That we can at at once somehow keep out of war, or at least out of any great participation in war, and yet enjoy the spiritual advantages of serving as the moral arbiters of war with considerable profit on the side. I think that is highly dangerous. I favor neutrality, however, not only in behalf of my own country but in behalf of the well-being of humanity. I am thoroughly convinced that American participation in a new war will not, in the long run, help humanity. It will curse us and break us down without compensation to mankind. And next, I believe that economic war is, at least in 9 cases out of 10, the road to regular war. I want, at least, to lessen economic war so far as possible. And any plan such as marking the aggressors and nonaggressors and waging economic war—because that is what it would be—against the aggressors, should only be undertaken by a nation which means to go on into military war.

Mrs. ROGERS. What countries do you consider the democracies today?

Mr. THOMAS. You would be surprised how few I think there are. You have to use a very partial and qualified use of the term. I think the Scandinavian countries are democracies. Australia and New Zealand are democracies. I think Britain and France, in their home arrangements, are relatively democratic. And their home arrangements are infinitely to be preferred to the Fascist arrangements. But Britain and France, gentlemen, face the world not as democracies but as empires. With their empires in the Far East, which

their fathers won by force and fraud and which they intend to keep, they are in the position of the sated thief. We are in the same category. Ask the Indians about us as aggressors—or the Mexicans.

Mr. BLOOM. What is your definition of "democracy"?

Mr. THOMAS. It would be a nation in which we have government of the people, by the people, and for the people. And to be perfect such a democracy would have to apply that principle in economics better than we do.

Mr. JOHNSON. And with a Socialist as President?

Mr. THOMAS. Well, it depends on what Socialist, I suppose, too. At least, what brand of socialism. Not myself—I'm through.

Mr. KEE. You stated a few moments ago our failure to invoke the Neutrality Act in the case of China and Japan places us in partnership with Japan. As a matter of fact, if we had invoked that act would not that have been a partnership with Japan to a greater extent?

Mr. THOMAS. I do not think so, Congressman. I think this is what would have happened if we had invoked the act: There would have been at once a complete embargo on actual completed implementations of war, of which Japan did get some, probably more than China. There would have been at once a prohibition of travel on Japan's boats. If we had invoked the Neutrality Act I am quite sure the Treasury Department would not have bought Japanese gold for some months, as I think I am correct in saying, they did, at the artificial price placed on gold. If we had invoked the Neutrality Act, I think pressure then would have been overwhelming for further prohibitions to be put on exports, like scrap iron for munitions. By the nonapplication of the law and by the President's ignoring the law and the facts, the Japanese got exactly what they got, which was more than 50 percent of their supplies, from the United States. This was the result of the fallacious doctrine that Japan was hurt and China helped by the President's ignoring one of the most flagrant wars in history, even if it was an undeclared war.

Mrs. ROGERS. There has not been a declaration of war since the Kellogg Pact.

Mr. THOMAS. Which was the more reason why the President should not have decided to ignore the fact of war. The Kellogg Pact has effectively stopped the declaration of war.

Mr. STANLEY. I am very much interested in your talk. Turning to your statement that neutrality should never be changed during war time—that statement has repeatedly been made by other witnesses before this committee. Isn't it true that if it is to our vital interest to change our neutrality we do it in war or out of war?

Mr. THOMAS. If we change it in wartime we ought not to call it by a wrong name. That is all I am saying. I am suggesting that we call things by their right names. The Nation will probably always exercise the right to change any law for its own advantage for reasons of its own, whenever it pleases. I am not denying that constitutional power to any nation. I am denying that that is to be labeled "neutrality." For instance, to take a concrete illustration, I think one of the unfortunate features of the kind of embargo that was suddenly imposed on Spain, which operated only to hurt Loyalist Spain—one of the objections I have against that was that advance



notice was not given of a change in the rules in the middle of the war. That is why I quoted that statement which you heard me read from Professor Beard.

Mr. SHANLEY. What rules did we change?

Mr. THOMAS. The rule of international law. And I think there was even some treaty that Spain had with America covering the right of that nation to buy supplies. Good or bad, the change should not have been labeled "neutrality" because the change at that time was essentially unneutral.

Mr. KEE. Was not the law itself advance notice?

Mr. THOMAS. The law was passed after the war was on, some time in December 1936.

Mr. SHANLEY. Of course, but there was a factual condition of belligerency, irrespective of the agreement, the rebel forces had fulfilled all the qualifications of international law as to belligerency. The act was recognition of that fact ipso facto.

Mr. THOMAS. Why didn't Congress call it that then? You called it, then, out of its name.

Mr. SHANLEY. I agree with you on that. You have given all of us a good definition of neutrality as "the abstention from all wars." In that I agree with you, so far as the word "neutrality" is concerned. I think a lot of loose thinking is going on with reference to neutrality. What is your present thought and worry?

Mr. THOMAS. I care—yes—but there are gradations of what I care about. And my supreme care is to keep America out of war, which would curse the world without blessing us. And because I think the Pittman law would be insufficient protection against our being dragged in, I am opposed to it.

Mr. SHANLEY. Suppose we do eliminate all neutrality legislation, go back to our pre-1935 status, and then we find out that instead of benefiting Britain and France, the so-called democracies, the totalitarian states were able to bring about a situation like that in 1917 when they were practically wiping the so-called democratic nations and their fleets off the face of the earth, through submarines, what would be the status?

Mr. THOMAS. I do not want to go back or to eliminate neutrality. I never want another situation where submarine warfare will force us into war. In other words, I would not go to war over the question of the freedom of the seas, which we never will have in a great war. I do not want to repeat the situation in which the United States got into the first World War.

Mr. SHANLEY. I understood you to say the cash-and-carry doctrine would be favored by you?

Mr. THOMAS. It would.

Mr. SHANLEY. Even though it might affect, and did help the British and the French? Is that so?

Mr. THOMAS. My position is as follows: I am not God, and neither is the President of the United States, and neither is America, for all its power. We cannot decide with omnipotent power who is right or wrong and who must win. We can decide the relative importance to us of keeping out of war and exercising our desire to help. I want to keep out of war, because we cannot save Europe, certainly not without too great danger to the United States. My

whole approach to the problem is not some abstract theory of justice which is awfully hard to work out, in international affairs in this troubled world. My whole approach to the problem is that of keeping America out of war, which would hurt and not help everything I care for, including the democracy. Having in mind what I read in the papers of the testimony before you, I gather that many men expect that the result of a war, especially if the "good" nations, the "democracies" have our economic help, would be a victory for them in an orderly fashion. On the contrary, whether we like it or do not like it, in the event of a world war, a general European war, unless there is a victory by some sudden act, before we can possibly get our forces into play, the overwhelming probability is that there will be no real victory. There will be a blow-up of civilization. I think because Europe realizes that, there has been no war. Enough things have happened in Europe to have led to a dozen wars in the world as it used to be before the first World War, and before aerial warfare. Anybody who ever took an airplane ride from New York to Chicago and amused himself imagining how many foreign capitals he can fly over in that time knows what aerial warfare is going to mean. I do not think our participation in war, either total or half participation, either economically or otherwise, will guarantee victory to the well established democracies. It will guarantee merely our being plunged into the kind of abyss that a European war will create. I do not wish it to be so any more than I wished for the weather which I find in Washington, but there are some things one accepts. And you cannot change it by saying prayers about it. War in Europe will have, in all probability, the result of the ruin of Europe. Our participation will not save the ruin of Europe, and will necessarily involve us, that is my whole position. Neutrality is not a sure cure—you remember my opening words: I want other things too—but because I think neutrality will help us to keep out of war, and because I want to keep out, I am for neutrality.

Mr. BLOOM. What other things?

Mr. THOMAS. I want other things: The right of the people, in the name of democracy, to vote on a declaration of war; or, if you do not like the word "declaration," on fighting the war. Of course, you would have to accept an actual invasion. But before any war would be upon us, except in an invasion, we would have the time to vote on it. That is, if we kept the proper control over the radio—I do not like the President's control of the radio—in an emergency I think we ought to have greater protection than the law gives. But if we can keep the radio for discussion, it would be possible to have rather effective public debates on the radio in less time, if time is what bothers you, than it takes your colleagues on the other side of the Capitol to make a speech.

Mrs. ROGERS. Do you feel that the President has such control over the radio—don't you feel that the propaganda that goes over the radio very likely will make the people go to war?

Mr. THOMAS. Not if it is properly controlled.

Mrs. ROGERS. How can you get proper control?

Mr. THOMAS. It is hard but possible. You see I did not suppose that these hearings covered all the things that ought to be done by

Congress. If this were the Committee on Radio, you might be surprised at some of the proposals I have to make in this connection. I am afraid this is not the right place.

Mrs. ROGERS. You say you favor the cash-and-carry plan. Would that not bring, in this case, the German submarines nearer to our shores, and would not the German submarines sink our ships? I do not think they would be very careful before they sunk a ship.

Mr. THOMAS. Well, they might not be. I know of no way of preventing insanity. Every time I go on the road I am in danger of having some fool driver kill me. Nevertheless, by driving ourselves safely according to the recognized rules of the road, we have a greater chance to escape. I think that applies to national affairs. In a wild world there is no perfect protection, but the more reason is that to get the best protection we can.

Mr. SHANLEY. I think you have answered my question by inference. Referring to the cash-and-carry plan, do you limit cash and carry to other ships or do you permit our own ships to carry?

Mr. THOMAS. If I were making the law I would limit it to ships under foreign registry.

Mr. SHANLEY. Our ships could not carry?

Mr. THOMAS. No. That is right. While there would be protection, legally, under contracts, attacks on the flag, and so forth, would get our passions aroused.

Mr. SHANLEY. You mean anything, including contraband and anything can be carried on our ships?

Mr. THOMAS. No. I believe nothing on the prohibited list should be carried in our ships under the cash-and-carry or any other provision.

Mr. SHANLEY. Then you say our law here has two distinctions. Arms and ammunitions are mandatorily out; those are contraband.

Mr. THOMAS. Yes.

Mr. SHANLEY. The extension of the list of contraband is discretionary with the President then?

Mr. THOMAS. Where it should not be; at least, exclusively.

Mr. SHANLEY. Arms and ammunitions of war should not be carried in our vessels?

Mr. THOMAS. That is right.

Mr. SHANLEY. How about munitions?

Mr. THOMAS. I believe that the list in time of war should be increased. I agree that there might well be a certain elasticity in increasing the list. I think the power of increasing the list should never be exclusively in the hands of the President, or even in the hands of the President to initiate with the support of the Congress. The power should be at least equally with the President and Congress to increase such list.

Mr. SHANLEY. Of course, the power of increasing the list of contraband does not rest with us, except as a secondary option. It is the belligerent who sets the list; we oppose it then. Would you fight any increase of that list? Would you allow a belligerent to extend the list of contraband to include nonessentials?

Mr. THOMAS. If any nation made it absolutely contraband to export foodstuffs I would certainly vigorously protest. I will be perfectly frank, I would not go to war for the right to export wheat to Germany or any other belligerent.

Mr. SHANLEY. Suppose food ships going over there were attacked, what would you do in that case. These are the cases we are interested in at this time.

Mr. THOMAS. You are not going to settle that by this hearing, are you? And even if you settled it, it won't stay settled. And even if I told you what I thought now I might change my mind under the pressure then. Your problem is, as I understand it, one of trying to pass a neutrality law. No neutrality law can be framed that will adequately provide for every possible contingency or for every kind of pressure—what we would do under this circumstance or that circumstance. I would hesitate a long time to pay the price of war for the right to export wheat in American bottoms. I would use all possible pressure short of war to continue that right. But that is not what I am proposing to be written in the neutrality law. I am proposing merely that the neutrality law be kept in regard to the mandatory features, as regards munitions control, as regards traveling on foreign vessels. I am proposing that the Johnson law governing foreign loans be kept. And then I also propose at the very last that the Nye-Bone bill—have you the equivalent of that here?

Mr. SHANLEY. No.

Mr. THOMAS (continuing). Should be added. I have got the bill before me. For instance, it gives the Congress the power to add to the list of articles on the mandatory embargo.

Mr. BLOOM. Mr. Thomas, you stated, I believe, that it would be wrong to change the rules after war is declared—that is, to change the rules of neutrality.

Mr. THOMAS. May I interrupt to say I did not state it would be absolutely wrong to change them, especially if the law warns that it may be done. I say it would be wrong to change without notice and call it "neutrality." If you change, though you change it for reasons that seem good, in general it is unneutral. It is unneutral to change the rules in the middle.

Mr. BLOOM. The idea is to write a Neutrality Act or to amend the present Neutrality Act. Now, if the Neutrality Act calls for specific things, and the nations of the world naturally would imagine that that Neutrality Act is going to, or will be, or should be lived up to by the United States, if the United States should change the Neutrality Act after the war has started, would that be considered an unneutral act?

Mr. THOMAS. In my judgment, the force of it then as a Neutrality Act would inevitably be lessened. I might come before you and urge you to change it. But I would have to admit sorrowfully that the change while the war was on could not help but be to some degree considered unneutral by one side or the other. Again I fall back on Professor Beard's definition of, or comment on, neutrality, which I read in the beginning of my statement.

Mr. BLOOM. Would you then say that if the rules of the game are changed, if our Neutrality Act were changed after a war had been declared, or after a war started which was undeclared, that that would be considered an unneutral act by a belligerent country, and that it might involve us in a war?

Mr. THOMAS. It might, depending on the nature of the change. Of course, I am not making absolute statements. I am aware, for

instance, if the President—let me be concrete—if the President had applied the neutrality law in the Far East and then found in fact that the law was unneutral in respect to its giving greater aid to Japan than to China, and the law had been changed, I do think Japan would have had some right to declare the change, after the war began, was somewhat unneutral. I would have taken that risk. But I would have favored neutrality law in the beginning which would have had a more complete embargo list, or would have given Congress the right to add to it.

Mr. BLOOM. Do I understand you correctly, Mr. Thomas, that to name an aggressor nation might be one of the most serious things that this country could possibly do?

Mr. THOMAS. To name an aggressor nation officially, and then to give weight to that designation by discriminating against it when it was engaged in warring against another nation would be extraordinarily serious, and it would lead to war, logically, if our discrimination was effective enough. It would not necessarily always lead to war, but the more effective it became the more likely it would lead to war, perhaps a war of desperation.

Mr. BLOOM. Does not the Thomas resolution specifically call, you might say, for naming the aggressor nation?

Mr. THOMAS. In my opinion, it does. Though it does it under the guise of naming the nation that has broken a pact to which we were a signatory. That is a very belated concern for the Kellogg Briand Pact. I would like the Thomas proposal better if it said, "Name the aggressor." I am against it. May I say that the Thomas family is not closely related—and this is no refutation of kin?

Mr. VORYS. Do you not feel that in a democracy the foreign policy must sometime follow public opinion, or it breaks down. Certainly our legal strait jacket for foreign policy in the neutrality law would have to somewhat follow public opinion or break-down?

Mr. THOMAS. That is correct.

Mr. VORYS. I believe you said—

Mr. THOMAS. Yes.

Mr. VORYS (continuing). That you feared a law that did not reflect public opinion might break down or cause a change in the law?

Mr. THOMAS. That is correct.

Mr. VORYS. Well, now, so far as Japan is concerned is there any question in your mind as to what the overwhelming public opinion in the United States is? That is, that we are against what Japan is doing? That they have violated, not the Kellogg Pact (that is not what we are talking about) but the Nine Power Treaty, written here in Washington, and that the public feel we are partners with Japan, because we are furnishing lethal weapons and ammunition?

Mr. THOMAS. That is correct.

Mr. VORYS. Well now, what objection would there be to simply designating Japan by name in a statutory embargo against Japan of things like, at least, lethal weapons and scrap iron?

Mr. THOMAS. There would be no objection, unless from a study of the objective facts you believed that line would lead America into war. Such a law would not necessarily mean war with Japan, but you would not call it neutrality, would you?

Mr. VORYS. None of us think that neutrality is "neutral"—or that there is any such possibility of real neutrality.

Mr. THOMAS. I think there is a possibility. Not that there is any such thing as absolute neutrality in the sense of absolutely keeping out of everything in the world. But I believe there is a definite possibility of keeping the United States of America out of war trade of the sort that will lead us in all probability to war. I have already told you that I think it was almost a criminal mistake that was made by the United States in regard to the Far East in that a law on the statute books was not enforced with supplemental power being granted.

Mr. VORYS. That is over.

Mr. THOMAS. No; it is not. It might still be better to pass a kind of neutrality law which I want than to have a unilateral embargo on Japan. I read in this morning's New York Times, I think, on the train coming from the West, a statement that China could not buy airplanes anyhow because all the factories were busy on other orders. I would prefer for the sake of precedent, I would prefer for the sake of the general attitude of America among the nations, to have a neutrality act now, even in respect to Japan, than to have a unilateral embargo, however justified. I might consider that unilateral embargo. That would be the last choice and not the first choice.

Might I say a word about your preliminary statement about public opinion? It is perfectly true in the end the laws have to be based on public opinion. But the leaders can help to shape public opinion and legislation can help that public opinion to be wise. I have a certain respect for these Gallup polls, but I also have a certain fear of them. Without discussion, here are sample lots of people throughout the land. They are asked, "Do you believe in this or that?" They vote on it rather quickly. They say, "Yes" or "No." They want this, that, or the other thing, without thinking it over. I have found man after man who believes, as I do not, that it is possible, for instance, to have a sharp economic discrimination against, let us say, Germany in war, without entailing any destructive war for the United States. When you ask them how they are so sure, well—then they begin to change quite a little. I have found a great many people who profess to believe you can wage economic war and make money out of it here in America, and yet not get into military war. I believe that both assumptions are extraordinarily dangerous. And I believe that this Congress after the kind of debate of which it is capable would make the people see how dangerous it is, and the public would gladly permit you to vote for neutrality legislation to keep out of war and out of the miserable business of partnership in war. I think it is morally rather a disgraceful business to go on making money, money, money out of slaughter. And I believe if you allow that kind of profit out of war to be started, and temptation to continue making immense gains for corporations and also for the little men who find a prosperity in war that they are unable to find in peace will lead us into war.

Mr. CHIPERFIELD. If I understood Mr. Thomas correctly, he was against allowing American ships to trade with belligerents? I wonder if the same result could not be accomplished by permitting American ships to engage in commerce with belligerents except that

we would put them on notice that they do so at their own risk? Wouldn't it be better than trying to preserve the traditional freedom of the seas by allowing our American ships to go in, in case they care to do so?

Mr. THOMAS. Your suggestion would be better than nothing. I think the best suggestion is not to have American ships engage in that kind of trade. May I say a word about freedom of the seas? It has never been enforced and never will be enforced. No belligerent fighting for life, having the power to interfere with trade, the United States included, will refrain from the use of that power. I have never been sure to what extent freedom of the seas is a noble principle. It might be a principle in respect to foodstuffs necessary to keep peoples alive. But freedom of the seas in respect to the rights of man to sell bombs and everything else that modern warfare implies, is not a noble principle at all. In this connection may I say that I have been informed by friends who are usually extraordinarily trustworthy—I have not had a chance to verify the figures—that in a week before Munich, the British released \$800,000 worth of war materials of some sort, for the German trade and the French almost as much. That is only one illustration of what we well know, namely, the ubiquity of trade, trade, trade, for profit. That is going on now, and it has gone on under this administration in spite of the President's fine speeches—morally fine speeches—on the subject. And I want to reduce that business of turning blood into profit. I want to hold it up to the light so the people can look at it.

Mr. CHIPERFIELD. How do you feel as to the power of them to formulate our foreign policy, and does that also include certain high officials outside of, say the President, the State Department, and our present Congress?

Mr. THOMAS. I believe that the foreign policy of the United States is as serious as its domestic policy and should be democratically determined. I think the initiative, of course, should be taken by the Executive. I believe, however, that before that policy leads to war it should be understood and that the people as a whole should vote on it. I also think it highly desirable that legislation should be enacted that the Foreign Affairs Committee of both Houses should be made cognizant of developments in foreign affairs.

In the British Parliament the right of even a private member to ask the foreign minister himself a question is a check greater than any corresponding check in America. In the French Parliament, in the Chamber of Deputies, it is the custom if not the law, that requires a foreign minister to meet with the committee of the deputies. We need similar legislation or custom in America.

Mr. BLOOM. Then you would agree to change the Constitution?

Mr. THOMAS. Oh, no. Not necessarily. There is no necessary change in the Constitution at all to make this provision. I think the letter of the Constitution has been a good deal more changed by law and custom than the simple change I now suggest. Anyway, it is not the Constitution that is primarily sacred with me. It is the right of all the people, of which the Constitution in general is a good expression. I would not mind it so much if I had to change the Constitution so that the people could get control of all affairs that lead them,

or may lead them, to war. I do not happen to believe any constitutional change is necessary except in respect of the right of the people to vote on entering the war.

Mr. CORBETT. I was very interested in Mr. Thomas' remarks. In going over this matter with a gentleman yesterday evening, I am wondering if on this whole subject of neutrality we are going sufficiently deep in harmony with the gentleman's remarks, that we are up against a situation where by the Constitution and proper provision the President has such complete jurisdiction over foreign affairs of the country that if we are going to have a Neutrality Act we must have it in the personality of the individual controlling foreign affairs. Now, as he pointed out regarding England, England employs and gives special prerogatives to a man to impose policies of the Government. Now, unless we can in some way set up in this country a democratic check similar to the democratic check which exists in England whereby before any important pronouncement on any foreign policy is made all those interests——

Mr. THOMAS. Excuse me. I just wanted to tell Mrs. Rogers before she left how glad I was that she introduced a bill letting in those children.

Mr. CORBETT (continuing). I was attempting to make the point that in my humble estimation some sort of a democratic check, perhaps nothing more than an advisory check on the President, in order that when any important announcement on foreign policy is to be made or any important recommendations on trade with the country, that the interested parties, namely, the Congress and, namely, the trading groups, and so forth, the Army and Navy be consulted. I submit that regardless of opinion the calling of the recent peace conference could not have been made in England without, for example, the Senate, being well informed. Now, my point is, I wonder in view of that, if we can make use of a War Trades Board or the National Defense Council, which is inoperative, or a committee composed of both Houses of Congress, or anything of that nature, which would consult and advise on the proper procedure to follow in case of a crisis.

Mr. THOMAS. Mr. Chairman, I think you are dealing with a matter of extraordinary importance and I am glad to see any sign that Congress is considering it. I am not prepared to submit even an outline of a law. But I agree with you that every declaration of such great importance as some Presidents have made should first by law or by custom be talked over in advance with responsible leaders, including responsible leaders of opposition parties. Personally, I reserve the right to change my mind without notice—I would prefer that the people to whom the President talks should be responsible leaders in Congress and that he hold a joint conference with the responsible party leaders, including the opposition, because they will have to fight, too, you know, if there is a war. In that respect I agree that the British procedure is better than ours. (I should hate to have anybody go out now and say that I am recommending the British Constitution, which I have some doubts about too!)

Mr. SHANLEY. During the war we had a so-called Neutrality Board, which advised the President. Now there is a movement on foot to set up a neutrality board of five members of the House and five from the Senate, members from executive departments, as a



matter of fact something like the European system, to go and ask advice on changes and use of diplomatic weapons, not especially for crises, because you will always have crises—crises seem to be the norm. Now, say, if we had a neutrality board for all time, yes, if we have these men studying the situation day by day (because the foreign situation is so involved and so intricate that even the members of the committee cannot keep up with it—if we had this board advising us and the President, it might be the check which does not exist under the situation today. Apparently under his constitutional authority, as long as the President in the White House and the Secretary of State should want to be neutral we will be neutral and leave us no alternative. All of those statements and acts of the President are absolutely constitutional. We may object to them but he has the right to so act. Now, if we set up this neutrality board with certain powers, they have to be constitutional powers, delegated powers, would there be a link or a liaison between the policy-making body, which is ourselves, and the President, who is out there in front and who cannot help but be influenced by surface events in the development of foreign affairs. Would you think something like that is effective?

Mr. THOMAS. You propose an idea on which I have not read or heard any argument. All instrumentalities should involve cooperation between the President and Congress. However important these proposals are, they seem to me subordinate to the framing of the general neutrality policy. At least this hearing is directed to the general policy of framing a Neutrality Act, and it is on that I have been speaking and to which my remarks primarily apply.

Mr. BLOOM. Mr. Thomas, do you believe it would be better to go back to the old way of dealing with neutrality and meeting the emergency as it arises and taking care of it at that time instead of writing a rigid neutrality bill that it may be necessary to change after a war has been started?

Mr. THOMAS. No. We got into the first World War that way. We hoped, many of us, that that World War would end war and make the world safe for democracy. It did not. Neither will the next war. I want to keep out, and I want to remember the lesson that I still think that war taught. I want to have the nations think that America will keep out altogether, not that America is going to try to keep partly out but to make all the money it can make by trading.

I believe the biggest help we can be to Europe is to say to Europe, "If you are going to be foolish enough to destroy yourselves and make a suicide pact in war, we are not coming in. We are not coming in to help you with extensive trade on any side." I cannot exaggerate how much I was impressed on my visit to Europe by this overwhelming turn to America. I talked to prominent men; I could hardly get the information I wanted out of them because they were so anxious to find out from me whether President Roosevelt was not going to do this or that to deliver them from their enemies. I think we would have been better off and Europe would have been better off if we had faced the facts earlier. I know a great many of your witnesses will disagree with that, but that is my opinion.

Mr. BLOOM. Well, the Pittman bill is a rigid Neutrality Act.

Mr. THOMAS. Oh, I am against the Pittman bill.

Mr. BLOOM. All right. The Thomas bill is.

Mr. THOMAS. I am against it.

Mr. BLOOM. And the Nye bill, if you will read it.

Mr. THOMAS. I say I am for it with qualifications.

Mr. BLOOM. Well, I know—

Mr. THOMAS. But not—the rigidity is not the important part. The risks of setting up a war trade which would keep America out of war alone concerns me. I am not arguing in the treatment of the rigidity or nonrigidity primarily. I am arguing that the present law, improved by the Nye-Bone amendment, while not meeting every possible contingency, because that is impossible in the world, nevertheless bids fair to lay down a policy of peace, of restraint on the kind of trade that usually leads to war more than any other bill I have seen proposed in the American Congress. That is my position.

Mr. BLOOM. Well, there is the Nye-Clark-Bone resolution. If you changed that after the war started, what would happen?

Mr. THOMAS. It would warn all parties equally before the war starts of the line of our policy.

Mr. BLOOM. Suppose the Nye-Bone bill passes and becomes law and then a war should start and we should change the Nye-Bone Neutrality Act after the war started. Wouldn't it be considered an unneutral act?

Mr. THOMAS. It probably would, but it would not be unneutral to the degree that other proposals are now, and at least we would then be dealing with a specific problem and with specific information. Congress would then be acting almost equivalent to a declaration of war, which it has the constitutional power to do.

Dr. EATON. I just want to inquire, Mr. Chairman, whether the Nye-Clark-Bone bill is not one that 50 Senators signed in a trance without reading?

Mr. THOMAS. The Nye-Clark-Bone bill is not. That was another bill. You must not blame only 50 Senators for signing anything in a trance. It's often done.

Dr. EATON. I have listened to Mr. Thomas with great sympathy and great interest. I was hoping that we would have him here some day for the members of the Republican part of the committee, after I saw his close connection with my leader, Mr. Fish.

Mr. THOMAS. Well, I have no interest in a united front with Republicans, even though I should get a meal from Mr. Fish. To have a Republican feed me seems pretty good.

Dr. EATON. I have listened with tremendous sympathy and interest to the ideals that Mr. Thomas has expressed here today and with which we all agree. But I have a very hopeless feeling that after we have created a vacuum in which to immerse the greatest nation in the world, that when the world war breaks out and the world is inflamed, this neutrality business and all those other artificial stunts will have about as much effect in keeping our Nation from contact with that world conflagration as putting a half pint of kerosene oil in the Atlantic Ocean in a hurricane. Now, I hate to admit that kind of pessimism, but I am afraid deep down in my heart that a world war will mean a world war, and in some way or other civilization will go to smash.

Mr. THOMAS. I share your fears, Dr. Eaton, and if I were living on, let us say, the planet Mars, and were looking down at this human

race, like a horse race, I would bet on the horse that bore death and disaster. The Four Horsemen of the Apocalypse would get my money. But that fate is not inevitable. If America can be persuaded to block war trade that would not be equivalent to pouring a little kerosene on the stormy Atlantic. The difficulty is the psychological difficulty of persuading Americans to block war trade and pay the price. They have to accompany, as I said before, neutrality with positive acts at home to deal with unemployment and the like. I do not think that is beyond the potentialities of the American people, properly led. And I think that the very risk is more of an incentive because you and I are not on the planet of Mars looking down at a human race. We are part of it. All we can lose is our lives and the lives of our sons.

I do not want my sons conscripted in another war to do what we did not succeed in doing the last time. Clearly, the non-Fascist nations now have got the strength in Europe to defend themselves and stop the Fascist nations. That is, if they are inwardly united they have the strength and resources. If inwardly they are divided, we ought not cement to them with the blood of our sons. I want to keep out of war, and I believe Congress can lead the American people to keep out. But it is not enough to have the emotional desire. We have to strike at the things that are likely to lead us into war. Those things, in part, are the unrestricted power of the President; in part, those things are war trade—we are talking now about war trade—and that is what I want to do as best we can—keep out of anything smacking of provocation.

Mr. Izac. Dr. Eaton stated something we all fear. We are here to write a neutrality act to keep us out of war. That is one reason.

Mr. THOMAS. That is right.

Mr. Izac. Now, all of the first-class nations have sufficient, we presume, manufactories for their munitions and they are going to turn to America for foodstuffs and raw materials. As long as we engage in that trade and furnish those nations with the things they feel they cannot get at home, we are going to be partners in any war, whether it is a conflagration in Europe with all of the nations in Europe taking sides, or whether it is a small war. Now, we should not be interested in the small wars. I think this committee when it formulated the first Neutrality Act did so in the hope that when there was this great conflict of nations we would be able to keep out of that war. I maintain, and I am going to ask your opinion on this, isn't the only sure way to keep out of war or out of such a war as that which I have described, an absolute embargo in time of war to those engaged in that war?

Mr. THOMAS. It might turn out to be so. And I would turn to an absolute embargo as a last resort if I so found it. But I would like before I took that last resort to hold up a principle that children ought to be fed. A friend of mine, in Germany for some academic work before Hitler's time, around 1928 or 1929, at the very time when his fellow schoolmates in the universities were young men and women, who had been children during the world war, told me (this was, mind you, before Hitler) that the one thing they all told him was their memory of always being hungry when they were children. Their hate was the thing that Hitler capitalized. I do not want

America, if it can possibly be avoided, to be responsible unnecessarily for the hunger of any children. I do not believe in going to war to have the right to export wheat to anybody but I am not yet persuaded that the world is quite so mad that from the very beginning we must give up an expectation of selling wheat and other foodstuffs to the world. If later we have to cut off foodstuffs, the very fact that we do it then may be putting the nations of Europe on notice that it is time they did something to end the wars which starve them.

Mr. IZAC. Isn't that the very reason we are making a Neutrality Act here, to put the nations on guard that hereafter they are going to have to raise their own wheat, their own cotton, and produce their own raw materials in future wars?

Mr. THOMAS. I make a sharp distinction in theory, and I think it can be made to some extent in fact, between supplies primarily useful in peace, and always necessary, and supplies obviously used solely for war or in an overwhelming proportion for war.

Mr. IZAC. In spite of the fact that all of the munitions are well taken care of by the European nations because they expect war among themselves and have been saying throughout the years, "All we have to do is take care of the munitions and America will furnish the wheat, cotton, and raw materials?"

Mr. THOMAS. I would put quotas, as I said, on the things I would be willing to furnish. The quota would be the average of the last 5 or 10 years of peacetime trade in the materials that could be used for war purposes. I would make it absolute for things that overwhelmingly would be for war, like scrap iron.

Mr. JOHNSON. Mr. Thomas, I am very much interested in and have appreciated very much the splendid and forceful way in which you have presented your denouncement of war and the profits in war trade, with which I am in complete harmony, and as Mr. Izac said, what we are seeking to do is to try, if we can, to pass legislation to prevent our involvement in war. That is the earnest desire of all of us. We all have the same goal, and the purpose is to have either the present neutrality law or have some strong neutrality law. But what I am thinking about is this: What Mr. Shanley asked you a question about a little while ago about the contingency that might arise whereby wheat ships containing wheat were sunk: What should we do? And you said we must not talk about that now. We are talking now about a neutrality law and I do not think we can intelligently write a neutrality law unless we do consider the contingencies that might arise. Don't you think there is something in that?

Mr. THOMAS. There is something in that, and my answer to Mr. Izac shows what I think there is to it. That is, I think your expectation can be accomplished by some provision, even in a mad world, for the peoples or governments to recognize some difference between the kinds of goods. I think, moreover, that the peoples who will have to end the type of government they have before they can be at peace. My policy therefore would be not to impose a mandatory embargo on stuffs used in peacetime, but to permit their export on a cash-and-carry plan under quotas. And if some boat is torpedoed, I cannot certainly judge what will be the effect on America, or even on myself. But I hope we would not go to war about it.

Mr. JOHNSON. Here is what I was thinking about. If we have this neutrality law that will not permit these shipments to be made, then, when something arises we would have to take some action about it. I think some of the opponents of neutrality legislation take the position that these people that want war in Europe are thereby encouraged to go to war because they think we are going to supply them with armaments. I think there is some force in that. Don't you think so also?

Mr. THOMAS. Some; but I think it is terribly exaggerated. I would like to be present when some of you really cross-examine some people who keep saying that. My private opinion is it is far less weighty than you think. I am thoroughly convinced already that neither Hitler nor Mussolini, to be concrete, will go to war in Europe if they do not think they can win in a very few months.

Mr. JOHNSON. Well, if they cannot win in a few months?

Mr. THOMAS. If they do go to a long war, they are crazy, and crazy folks are not intimidated by anything that may be threatened.

Mr. BLOOM. Aren't they?

Mr. THOMAS. No; not much. I am thoroughly convinced in any long war, even without the United States, the overwhelming preponderance of resources is against Hitler and Mussolini. If that fact doesn't stop them, what we will do won't be a decisive factor. Moreover, every year sees greater progress toward desperate self-sufficiency on their part. I have never seen a properly supported argument in its treatment of economics or psychology, for the statement that the one decisive factor in deterring war or even in winning a war will be free trade, with America in the war.

Mr. VORYS. I thought you just said that, Mr. Thomas.

Mr. THOMAS. What did I say, that you thought? Understand, I do not want to have a misunderstanding. It means too much to me.

Mr. VORYS. That if it is known the United States would stay out it would keep Europe and help keep peace.

Mr. THOMAS. I say, if long in advance it were known by the nations that now hope to trade with us, that they could not, I think it would make some difference. I do not think in a crisis, as now, our staying in or out would be decisive. What I objected to, and I want to make it perfectly plain, was to go to conference after conference in Europe and find in the discussion of European politics—it began from the time I got off the boat at Southampton—always the question: What will the United States do to help us? Now, I think that our answer would not be the final factor in war or peace. But advance notice even today that we will keep out would be good. To say that is consistent with saying that Hitler and Mussolini will not be deterred by our weight in what they think will be a short war. It is a short war they are planning on, if any.

Mr. BLOOM. How would you lessen economic warfare?

Mr. THOMAS. What do you mean, "lessen it"?

Mr. BLOOM. You said something about lessening economic warfare. How would you lessen it, or rather, our participation in it?

Mr. THOMAS. I would lessen it by a neutrality law that would keep us from the kind of trade which makes us entirely the ally of one group, by force of fact, rather than another; or even from the kind of

trade which may make us the allies in the miserable business of wholesale destruction on both sides.

Mr. BLOOM. You said something about a short war. But if it is a war in the future, may I ask you what you mean by that?

Mr. THOMAS. Well, I have heard an argument, and you have heard it, which goes like this: The chance of the United States keeping peace and defending herself without too crushing a burden of armament, is that England will continue to control the seas. If in a war the English control of the seas would be supplanted by, let us say, the German, then our position would be less secure. Therefore we should fight now to preserve British control of the seas because presumably it would be an easier war now than it would be later. It is that idea which I want to hit. I want to hit it on several grounds. I want to hit it, first, because, I do not want to rush into death now because I am going to die later on anyhow. I would like to live a little longer anyway. I want to hit it on the ground that it is bad logic to stir up the risk of a certain war as a preventive of a very dubious war. Second, part of my conviction and part of the reason for my taking this position is that the victor in the next war will not be any strong nation eager for further conquests. It will be death, chaos, and dark night. The United States will not be greatly jeopardized by the victors, whoever they may be. They will not be in a position to grab the seas and come across against us. And in any event we have our own defenses and resources to make those defenses good—a task made easier through our geographical and historic position.

Dr. EATON. I would like to ask Mr. Thomas, in case such a tragedy took place and the victors in the world would be death and ruin, which I think is a fact, how are we going to escape the infection of that surrounding death and ruin?

Mr. THOMAS. We won't altogether.

Dr. EATON. We cannot remain alone, an island of prosperity in an ocean of adversity.

Mr. THOMAS. No one thinks we can—I least of all. I have advocated for 20 years measures, which I am sure many of you have opposed, for doing things that might have been done without war to lessen the sorrows of the world. I opposed the peace of Versailles. I won't go into it all. It is water under the bridge. We cannot escape the infection, Dr. Eaton. Nobody knows that better than I. But there are different degrees of danger. We will have, in medical terms, under democratic policies, enough white corpuscles to overcome the infection. But if we go into war we won't have enough to overcome the infection in the body politic. At peace we may have a chance, in war we have no chance, to preserve democracy.

Dr. EATON. Just one more suggestion. I was profoundly interested in your statement that you found everyone in Europe everywhere asking what will America do. Doesn't that indicate world-wide recognition that this is the great nation of the world and that we have obligations to the rest of the world, which if we ever find some way of discharging them, would be a blessing instead of a curse?

Mr. THOMAS. It probably does. But it illustrates, to my mind, that our program ought to be the maximum possible cooperation for peace and the maximum possible isolation from war. I have great

interest in my fellow countrymen but I fail to see why I should join in a suicide pact.

Dr. EATON. That is perfectly true. Was it universal? Their one attitude was what America will do in war or did they have some splendid conception of this great Nation as a big brother of the world, to which they could look and have gotten help to sustain peace?

Mr. THOMAS. One of them, and a man in some position of authority, said to me, "I don't know much about your domestic policies in America, and when we applaud Roosevelt it is because we believe he is the one statesman in America who is most likely to come to our aid." I was talking in Belgium at the time, but to a group of very strong pro-French people. "The only statesman in America who is likely to help us in the next war is Roosevelt; therefore, we are for him." That was the frankest utterance on it. But Monsieur Blum was almost equally frank.

Mr. BLOOM. Monsieur Blum, Mr. Thomas.

Mr. THOMAS. Blum—I beg your pardon. By the way, I think that I am a great admirer of a great many of the policies and of the character of Leon Blum. I do not want to be misunderstood on this point. But I think it is a little unfortunate that his eyes were centered so much here.

Dr. EATON. He was a good deal of a Socialist.

Mr. THOMAS. He is a Socialist. You know some Christians too, don't you Doctor?

Dr. EATON. That was when we were boys together.

Mr. BLOOM. Instead of the word "neutrality," what word would you use?

Mr. THOMAS. I would use neutrality. By neutrality I mean abstention from war or the things that under modern conditions in overwhelming probability lead to war. That means abstention with regard to war trade with nations engaged in war. That is what neutrality means. Now a neutrality law is not the be-all and end-all of my program. But if you are enacting a neutrality law it ought to be a neutrality law.

Mr. KEE. I gathered from your statement in reference to your conversations you had over there with those people that they were thinking in terms of war and not in terms of peace.

Mr. THOMAS. That is right.

Mr. KEE. And they were not thinking of what we would do to preserve peace but what we would do in the event of war?

Mr. THOMAS. What they were thinking—they probably would deny it—but if I am judge of what they had in mind, they were not asking me what I thought could be done to keep the peace but what I thought America and President Roosevelt would do in the event of war. That is their whole interest. I am sorry that is so but it is so. I am sorry lots of things are so. I do not like to have to say some of the things I have to say today. I wish without going to war we could make virtue triumph over wrong. And I have my own ideas of virtue. I hate fascism. But war will only extend the ravages of fascism.

Mr. FISKE. However, you would put 130,000,000 people in war through your idea of coming out a Fascist nation?

Mr. THOMAS. We would come out of the war Fascist, by the nature of the totalitarian state, of modern war, and the necessity to wage it effectively.

Mr. FISH. Or we might come out a Communist nation?

Mr. THOMAS. In respect to the totalitarian nation of Stalinist communism, there is no important difference. I am against it.

Mr. FISH. Before you said as how we are agreeing, Republicans and Socialists.

Mr. THOMAS. You would be surprised how I still disagree. I will have to talk to you privately and tell you a few things about that.

Mr. BLOOM. The committee will recess until 2 o'clock.

#### AFTERNOON SESSION

Mr. BLOOM. The committee kindly come to order.

Members of the committee, we have here with us this afternoon, Mr. Eugene I. Van Antwerp, who will first read a statement—and do you mind interruptions?

Mr. VAN ANTWERP. Not at all.

#### STATEMENT OF EUGENE I. VAN ANTWERP, COMMANDER IN CHIEF OF VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. BLOOM. Will you kindly give your name, and whom you represent?

Mr. VAN ANTWERP. My name is Eugene I. Van Antwerp, commander in chief of the Veterans of Foreign Wars of the United States. The headquarters are in Kansas City, Mo.

I am a resident of Detroit, Mich.

Mr. Chairman and ladies and gentlemen of the Committee on Foreign Affairs, our organization, the Veterans of Foreign Wars of the United States, has always been interested in the foreign affairs of the United States.

The V. F. W. came into being 40 years ago. The foreign affairs of the United States resulted in 1898, in the Spanish-American War. Thousands of American citizens were then sent overseas to serve in the front lines in Cuba, Puerto Rico, and the Philippine Islands.

Among those who returned from Cuba and the Philippine Islands in 1899, three associations were formed in various parts of the country, which were afterward consolidated into the Veterans of Foreign Wars of the United States.

Inasmuch as the V. F. W., as it is commonly called, includes within its membership only those American citizens who have had overseas combat-badge service, in some foreign country or in hostile waters during some war, campaign, or expedition, in which the United States has been engaged, it follows that its members, individually and collectively, cannot help but be interested in the future foreign affairs of our Nation.

We, who are members of the V. F. W., have served in the front lines of our country's various wars, campaigns, and expeditions. By personal experience and observation we, of the V. F. W., know about the mud and vermin of front-line trenches, the long marches with heavy packs, the exposure to the raw elements, the monotony of eat-



ing "slumgullion" day after day, the whining of screaming shells, the terrifying zing-zing of passing bullets, the rat-tat-tat of distant machine guns, the terrific concussion and terrible roar of exploding shells, the fear of sudden death, the constant high tension, the terrible stress and strain, the horrible mangling of human bodies, the horror of seeing old friends and buddies wounded or killed, and the philosophy of fatalism, adopted as a protective cloak for our own sanity.

We know about the futility of war, the hisheartening human aftermath of war, the disillusionment upon finding our promised old jobs filled by others, and upon noting the economic maladjustments visited upon ourselves and upon the entire country by reason of its participation in war.

We, who have had the experience of front-line service, want no more of it, for ourselves or for our sons, or for the sons of our fellow citizens, if future war can be honorably avoided. We are therefore intensely interested in the application of such policies as are honestly designed to keep America out of war.

If history can teach us to learn lessons from the experiences of the past, then we must realize that there is no one formula for keeping America out of war. Rather, it would appear that there are several formulas which ought to be adopted to help to keep America out of war.

There can be no doubt that we live in a period of human history where peoples and nations are more interdependent than perhaps ever before. Technological developments have brought us closer and closer together. Even if we would do so, we cannot entirely ignore what is happening in other parts of the world, for all such events will inevitably have more or less effect upon our Nation and upon its people.

During this age of ever-increasing specialization of industry—with many important natural resources, raw materials and products obtainable only in certain countries—complete isolation for the United States, from the affairs of all other nations other than those in the western hemisphere, would be impracticable, if not absolutely impossible.

We must face the world as it now is. The ever-speedier technological developments, in our country, and in other countries, have caused, and will in the future, cause economic maladjustments and displacements among the people within our own country, as well as among the various nations in their relationships with each other.

By the enactment of additional laws in our various States, and by our Federal Government, and by the application of new industrial methods and principles, from time to time, our own country has been striving to effect such readjustments as will provide increased employment with resulting purchasing power, by which again to speed up the wheels of industry, so that all of our own citizens may be enabled to purchase the necessities and comforts of life which our productive ability and natural resources can make available.

Satisfying the needs of our own citizens, and their desires for some of the comforts and luxuries of life, is the real basis for our international trade. If a favorable balance of trade for our country does not enable a greater number of citizens to continue to secure

such necessities and comforts of life, then it is of little value to the Nation itself.

A favorable balance of trade is secured only by the exportation of raw materials, commodities, machinery, and other products produced by the labor of our country—its real resources—in exchange for foreign gold or credits, with which to purchase other commodities which our country may need in the future. In this exchange of our country's resources for the gold, money and credits of other nations, we run the danger of converting our Nation into one of the "have-not" nations.

History discloses that frequently in the past it has been the fundamental economic maladjustments as between various nations which have been the real causes for war, without which all other differences could probably have been peacefully negotiated.

It is not within our province to pose as economic experts, but it would seem that every feasible step ought to be taken, by peaceful negotiations, to effectuate the settlement of the most irritating economic maladjustments between nations, with the hope that their peaceful settlement might remove some of the most irritating differences between nations.

Perhaps the very most important factor of all is the personal attitude of the citizens of the United States, individually and collectively, caused by our various points of contact and our diverse relationships with foreign countries.

Our own citizens must learn to be temperate and tolerant, and must restrain their emotions, so that sensational newspaper headlines will not so easily inflame their fervor for a war against some offending nation. A thorough realization as to the heavy costs of war, and of the aftermath of war, would cause citizens generally to be less responsive to jingoistic newspaper headlines, magazine articles, and radio broadcasts.

Surely, it is not unpatriotic to remind the Nation that becoming involved in war will inevitably result in snuffing out the lives of thousands of young American citizens, will rob other thousands of their youth, and will leave thousands of dependent parents, and widows and orphans, unprovided for, because of those who die by the shot and shell, the gas and disease incident to war.

Surely, it is not unpatriotic to remind the people of our Nation, and the Members of our Congress, that our Nation's participation in any future war will result in hundreds of thousands of totally and partially disabled war veterans, whose ailments must be treated in Government hospitals, and for whom compensation must be provided, to make up for the vocational loss of handicapping disabilities.

Surely, it is not unpatriotic to remind the people of our Nation that the cost of war, during its progress, goes into the scores of billions of dollars, and after its termination accumulates additional hundreds of millions of dollars each year to provide for the interest on the increased indebtedness, and to provide for the human aftermath of war.

The last World War was supposedly fought to end all wars, to preserve democracy. It has done neither. More wars have been fought since then than during the 20 years preceding that time. There is

less democracy among the various countries which participated in that war than there was prior to that time.

By a fuller realization of these various factors the people of our Nation will be less apt to be aroused by some resounding phrase, slogan, or shibboleth, equally as empty of real fulfillment as were the slogans used by the United States to arouse the patriotic fervor of its own citizens during the World War.

To bring about a greater realization of these factors, we of the Veterans of Foreign Wars believe that several steps ought to be taken by this session of Congress:

1. The Federal Government should immediately assume the sole responsibility of providing for the human aftermath of the last war by adequate pensions for all disabled and unemployable veterans, and for the dependents of all deceased war, campaign, and expedition veterans. This burden should no longer in part be shifted to the various States through matched State and Federal social-security funds, but should be assumed solely by the Federal Government, just as it has previously assumed such responsibility as to the veterans, and dependents of deceased veterans, of all previous wars in which the United States has been engaged. Too long has the Federal Government delayed the assumption of this responsibility.

Lest the United States be too easily tempted to become involved in another foreign war, it should first voluntarily assume the sole responsibility of providing adequately for the human aftermath of the last war.

2. Congress ought now to enact a law, such as embodied in S. 1497, now before the Senate Committee on Military Affairs, in effect to provide that the laws providing certain benefits to veterans of the World War suffering from disabilities incurred or aggravated in service, and to the dependents of veterans who die in or by reason of such service, should be equally applicable to the veterans who may become disabled by reason of service in any future war, and for the dependents of those who may die as the result of disabilities suffered in the armed forces of the United States in any such future war.

Our Nation should be no less anxious about providing adequately for the human aftermath of any future war in which we may become engaged than it has been about providing for the equipment and material, the guns and ammunition, the planes and ships, in preparation for any such future war. The morale of the man behind the gun is even more important than material and munitions.

3. Congress ought now to enact into law, while this country is still at peace, the bill recently introduced by some 13 or 14 members of the House individually, and by 50 Senators jointly, "to tax the profits out of war by steeply graduated income and other taxes in order to provide for effective national defense, to promote peace, to encourage actual neutrality, to discourage war profiteering, to distribute the burdens of war, to keep democracy alive, and for other purposes."

We firmly believe that the enactment of such proposed war-profits-taxation legislation at this time would do much to make all American citizens realize that the costs of war must be paid for out of its profits, that the costs of the next war will be more evenly distributed, among all citizens, than was so as to the last war, that those behind the lines will have to make sacrifices to pay for the costs of

maintaining others in the front lines, that the "pay" will have been completely taken out of patriotism, and will thus instill in all citizens a desire for the perpetuation of peace and a determination that the Nation shall follow a policy of actual neutrality, and do everything possible to keep out of other people's wars.

Without the enactment of such drastic war-profits-taxation legislation it is quite probable that the Nation would have to become so regimented during time of war as would in effect result in some form of state socialism, very possibly followed up, after the conclusion of any such future war, by a dictatorship similar to either fascism, naziism, or communism. The civil liberties now guaranteed by our national Constitution would be forfeited under any such totalitarian state.

The present enactment of legislation to tax the profits out of war would perhaps do more to instill an attitude of actual neutrality in the minds of all citizens than would any other proposed legislation.

There are also other steps which we believe should be taken toward the objective of keeping America out of war.

Although the Monroe Doctrine has been the policy of our Nation, it has not yet been enunciated in any resolution or law adopted by Congress. Our Nation should declare by a joint resolution adopted by Congress that it will not engage in any foreign war for the acquisition of any additional territory, for the support or defense of any country not in the Western Hemisphere, and nor will it permit any non-American country to conduct any war against any country in the Western Hemisphere for the acquisition of additional territory, or special privilege.

The enunciation of such principles, not only by our State Department and our President, as in the past, but by our Congress, would do much to make our position clear not only to the nations in the Western Hemisphere but particularly to the nations in Europe and Asia.

Such a policy must necessarily be backed up by an adequate national defense. Effective steps have been taken during the last several years, with the vigorous support of the Veterans of Foreign Wars, to this end. Our policy of maintaining an effective national defense by a comparatively small standing army, backed up by trained citizen reserves, with provisions for a quickly expandable citizen army, with adequate matériel, munitions, motorized and mechanized equipment, antiaircraft guns and airplanes, and with a first-class Navy as our first line of defense, must be continued in the future.

An adequate national defense, which is feasible without complete militarization, is the best preparation against war, as well as for any unwanted war, if it should come, and at the same time is the best guaranty for the continued preservation of peace.

Our country should continue its policy of not permitting its citizens to extend any loans to any nation which is at present in default in its indebtedness to the United States, in accordance with the provisions of the so-called Johnson Act.

No loans or credit, moreover, by this country or its citizens should be permitted as to any country, or its citizens which is engaged in war.

We should not repeat the mistake of loaning out 11 or 12 billion dollars to other countries at war in order to enable them to purchase various commodities from this country, thus creating a false pros-

perity, accompanied by inflation and followed by a disastrous deflation, with the extended credit probably destined never to be repaid.

Increased foreign trade and increased favorable balances of trade thus acquired may, it is true, result in profits to a few of our citizens, but only at the expense of the gradual exhaustion of the actual resources of our country. Never again should our Nation go into the business of guaranteeing, underwriting, assuming, or arranging for foreign credit to any un-American country for the purchase of American goods during time of war.

The citizens of our country should be taken out of any country which is at war just as soon as possible, and, after the expiration of reasonable warnings, the United States should no longer assume any responsibility for their welfare if they choose to remain or to travel in countries at war or in zones of danger. Our country should also withdraw its armed forces from all foreign soil, except such as needed to protect Government property.

The United States should not enter into any secret agreement or any foreign entanglement which might result in sending any armed forces to fight in some other country.

The United States should permit the sale of supplies to a nation at war only if paid for, and only if ownership thereof is transferred at our shore lines, without any protection or responsibility by the United States Government thereafter.

If actual neutrality will keep America out of war—as we believe it will—then our neutrality policy must be so designed as not purposely to give an advantage either to an aggressor nation or to a nation which is defending itself.

The developments during the last 2 years have taught us that neither mandatory, nor discretionary, neutrality will necessarily result in actual neutrality.

I think it is pretty well acknowledged that the President did not see fit to find that a state of war has been existing between the countries involved in the conflict in the Far East, and thus to invoke the provisions of the present neutrality law, because he did not thereby wish to extend an added advantage to the aggressor nation, and a corresponding disadvantage to the defending nation.

To have invoked the provisions of the present neutrality act as to the conflict in the Far East, would not have resulted in actual neutrality. An embargo on the further shipment of munitions would then immediately have been put into effect, to the decided disadvantage of the aggressor, as compared with the aggressor, nation. The stronger nation could continue to process its own munitions out of the raw materials which would still be available to it by importation from the United States under the provisions of such neutrality law. The weaker nation, already possessing most of the essential raw materials, could continue to import same, if desired, but would be denied the right to import needed munitions which it is not so well prepared itself to manufacture. On the other hand, the stronger nation which is well equipped to process its own munitions, would be denied such munitions, but could continue to import badly needed raw materials out of which to make such munitions.

Thus, we of the Veterans of Foreign Wars, who were previously very insistent in our advocacy for mandatory neutrality, have had to admit that if a mandatory neutrality law had been in effect as to

the conflict in the Far East, it would not have worked out as actual neutrality, but would have given an added advantage to the aggressor nation, and an added disadvantage for the defending nation.

So-called discretionary neutrality could also be applied so as to have other than an actual neutral effect. To give authority to the President or to the State Department, to decide which nation is an aggressor nation, and then to deny the further shipment of raw materials, commodities, or munitions to such aggressor nation would immediately be thrusting our nation into the cause against the aggressor nation, on the same basis as though we were a member of the League of Nations, but without assurance that all other nations were acting in unison with such a sanctions policy.

To adopt such a policy of extending economic aid primarily to the so-called democratic countries would be, in effect, to give our approval to the status quo among all nations and would encourage such democratic nations to discontinue further negotiations to try to settle the irritating economic deficiencies and maladjustments which now exist within most nations, which are the real bases and the excuse for the fanaticisms of certain aggressor "have-not" nations.

Neutrality policies should be so applicable as not to give cause to any nation to allege that they were purposely designed to give added advantages, or disadvantages, to certain classifications of nations, according to certain predetermined formulas or according to some designated person's discretionary judgment.

Actual neutrality would seem to imply a determination not to interfere, not to intervene, not to take sides, not to give advantages or disadvantages, purposely to one side or the other, in any war between other nations.

During the recent civil war in Spain, England followed a policy of nonintervention, and continued to do so even though more than 100 ships of her vast merchant marine were sunk by the airplane and guns of the forces fighting in Spain.

During the World War, the little country of Norway, which then had next to the largest merchant marine in the world, determined to follow the policy of actual neutrality, and continued to do so, even though almost exactly 50 percent of its merchant marine, together with hundreds of sailors, were sunk by the contestants in such war.

Sweden and Denmark and Holland, located close to the chief belligerents during the World War, were nevertheless able to follow a policy of actual neutrality.

All of these countries continued to sell goods to any country which was in a position to buy them. Each such country gave its ship-owners to understand that if they wished to engage in hauling goods through zones of danger they did so at their own risks, and that the Government would not follow up such loss by declaring war against the country whose navy or airplanes may have been responsible therefor.

To insist upon the freedom of the seas within war zones, when two or more nations are engaged in a life struggle against each other, is not being practical.

To advise the shipowners and merchant marine operators of our Nation that they may continue to engage in the traffic of hauling goods to other countries at war strictly at their own risk, provided

that they have adequate insurance on the lives of their sailors and on the ships owned by others, would be to adopt the same policy successfully followed recently by Great Britain during the civil war in Spain, and by Norway, Sweden, Denmark, and Holland during the World War, with considerable loss of property and of lives, it is true, but at infinitely less cost of property and lives than would have been the case if each such country had decided to become involved in war because of its insistence upon maintaining the freedom of the seas in war zones.

The enunciation of such a policy of actual neutrality, by a suitable amendment to the present neutrality act, without any provision to make any distinction between an aggressor and a defending nation, or without any provision to make distinctions between munitions and other material needed by countries at war, coupled up with the adoption of the other policies which we have previously outlined, would, in my opinion, be the nearest approach to actual neutrality which can be devised.

If such a policy were calmly and coolly entered into by this country, with a thorough understanding of same by all citizens, then we do not believe that they would be so easily inflamed by propaganda designed to persuade the United States to pull hot chestnuts out of the consuming flame for some so-called democratic, but imperialistic, country, as against some totalitarian country, or for some "have" nation as against some "have not" nation, or for some weak, defending nation as against some highly organized, strong, aggressive country, or vice versa.

Our country should not attempt to become the policeman for the other countries of the world. It can properly use the big stick to protect itself and other American countries, but to attempt to use the big stick to control the morals, ethics, and actions of other nations will almost certainly involve us in the wars of other nations, with probably no net gain to civilization, but only devastating losses for humanity and all nations.

To enact a neutrality law would necessarily result in the loss of trade for certain industries, or in the cessation of the shipping of our merchant marine would invite the interested financial group to do their utmost to prevent the invocation of any law which might detrimentally affect them. Such economic interests, impelled by the profit motive, would probably secretly work in devious ways to try to exercise influence, directly and indirectly, to secure different interpretations and applications of any attempted partial neutrality, depending on their respective conflicting interests.

If, on the other hand, the citizens of our country come to the full realization that their investments or credits abroad, or their risks of carrying on trade between other nations, will not become the responsibility of the United States, to the point of leading it into war, then a policy of actual neutrality could be more feasibly adhered to.

Because these proposed policies are not contained in any one neutrality bill, I have refrained from making reference to any of the neutrality bills before this committee.

Strange as it may seem, the Veterans of Foreign Wars—whose future eligibles, if any, must come out of some future foreign war participated in by the United States—is honestly striving to do away

with the possibility for its continued existence beyond the present generation of war veterans, by its strong advocacy of policies to avoid the necessity for any veterans of future wars.

Much could be accomplished, in my opinion, to avoid the eventuality of any devastating war for America by:

(1) The Federal Government's assumption of the full responsibility of providing adequately for the human aftermath of the last war and of any future war;

(2) Taxing the profits out of war by steeply graduated income taxes;

(3) Providing an effective national defense;

(4) Denying any credit, or loans, by this country or its citizens, to any country, or its citizens, which is engaged in war, or which is in default in its indebtedness to the United States;

(5) Withdrawing protection from American citizens who continue to remain in or travel in belligerent countries, in their ships, or in war zones;

(6) Enunciating the policy that the United States will not permit the invasion of, or any aggressive war against, any country in the Western Hemisphere for the acquisition of territory or special privilege, and that it will not conduct any war against any other country for the acquisition of territory, or to defend or support any non-American country;

(7) Following a policy of actual neutrality as to our foreign trade, during time of peace, as well as during time of war between other nations; and

(8) By encouraging international conferences to bring about better adjustments of economic difficulties among all nations, to remove the most irritating fundamental causes for war.

Democracy for our country, and the guaranteed personal and civil liberties under our Constitution, as well as civilization itself, can best be preserved by keeping America out of war.

Adoption by the United States of the several policies which we have here submitted for your consideration would, we most earnestly believe, make it less possible for the United States to become involved in any foreign war.

Thank you.

Mr. Bloom. Are there any questions?

Mrs. ROGERS. May I ask a question. Are you speaking for the organization? It is endorsed by the entire organization?

Mr. VAN ANTWERP. This is an epitome of our resolutions as adopted in the last national encampment, and brought down to date as near as possible from the general contents of the resolutions in the last national encampment.

Mrs. ROGERS. Of course, no one knows better than the members of your organization what the horrors of war are.

Mr. VAN ANTWERP. Thank you. We believe that is true.

Mr. ALLEN. Mr. Van Antwerp, in your reference to the Bone bill to take the profits out of war, are you endorsing that bill as it is now written?

Mr. VAN ANTWERP. That bill was sponsored by the V. F. W., yes, sir. It may need some changes, but not as to the principles involved.



Mr. ALLEN. Well, do you not feel that in its attempt to take the profits out of war, it is establishing a vehicle which is very dangerous, in the huge centralization of power which we delegate to the Chief Executive, and which we may never be able to get back after the emergency is passed, in the light of history and experience of other countries, do you not feel that we are delegating too much authority there to one man?

Mr. VAN ANTWERP. It does not delegate any authority over either labor or industry; it is merely a war-profits taxation measure.

Mr. ALLEN. Well, the administration of it seems to me would almost necessitate a centralization of power. In many respects it is similar to the May bill of last year.

Mr. VAN ANTWERP. Oh, no, no; it is not anywhere near similar to the May bill. It is divorced from all economic and social control, and is designed only to recapture the profits of war by taxation methods, with which to pay for the costs of war, and of war's aftermath.

Mr. BLOOM. Have you read the Thomas bill?

Mr. VAN ANTWERP. It would be administered by the Bureau of Internal Revenue.

Mr. ALLEN. The very ramifications of the bill would necessitate, it seems to me, a strong central authority, in order to enforce the provisions.

Mr. VAN ANTWERP. The Internal Revenue Bureau?

Mr. ALLEN. I am talking about the present Bone bill—however, I did not want to engage in an argument. I just wanted to ask you a question, which is very interesting to me. I wanted to know if your organization had endorsed that.

Mr. VAN ANTWERP. That is our bill as it stands; yes.

Mr. JOHNSON. Are you sure that you are talking about the same bill?

Mr. VAN ANTWERP. Well, he mentions the bill introduced in the Senate by 50 Senators under the leadership of Senator Bone, of Washington. That bill, S. 1885, was sponsored by the V. F. W.

Mr. ALLEN. That is the one I am referring to.

Mr. JOHNSON. I did not observe that in the statement that you read there was any difference made in your views between war materials; that is, arms and munitions and other commodities. Would you treat them all the same?

Mr. VAN ANTWERP. Yes, sir; because war materials can be fabricated—that is, most commodities can be fabricated into war matériel. Take, for instance, such a harmless thing, apparently, as cotton, becomes one of the most dangerous war materials when fabricated, and most of these highly developed countries are able to change them over.

Mr. JOHNSON. What I am trying to get at, the present law, we have a section that deals with arms, implements, and munitions of war, in which there is a complete inhibition, and then a cash and carry with reference to other commodities, but you would treat all of them alike?

Mr. VAN ANTWERP. All of them; all countries that wanted it, and had the cash to pay for commodities or material on our shores.

Mr. JOHNSON. Boiled down, your bill with reference to commodities would be a cash and carry as to all commodities to warring nations?

Mr. VAN ANTWERP. That is right.

Mr. JOHNSON. That is a good deal like the Pittman bill in that regard. Have you read the Pittman bill?

Mr. VAN ANTWERP. The Pittman bill says that it cannot be done in our own vessels in war zones, but we advocate that our own vessels can do it at their own risk.

Mr. JOHNSON. Your views differ from the Pittman bill in that the Pittman bill makes a cash-and-carry in vessels of other countries whereas yours would permit our own vessels as well as theirs on a cash-and-carry policy.

Mr. VAN ANTWERP. That is right.

Mr. BLOOM. Does not your organization take these different bills as introduced in the Senate and House and study them to find the good qualities and the objections to the different bills?

Mr. VAN ANTWERP. Yes; we do that.

Mr. BLOOM. What is your impression of the Thomas bill?

Mr. VAN ANTWERP. I would not know to what bill you were referring without the number. Our legislative committee—and we have a special legislative committee and a special legislative representative who makes a study of those bills, and then they make a general report to me generally on it.

Mrs. ROGERS. You have to cover the country, do you not, and take up everything?

Mr. VAN ANTWERP. Somebody designated me the other day as the Marco Polo of the organization.

Mr. BLOOM. Do you believe in a rigid neutrality bill?

Mr. VAN ANTWERP. What do you mean by that?

Mr. BLOOM. That we should enact a neutrality bill and then have that bill continue right through for the times proposed in the bill or shall we change the rules at any time that we see fit even after war is declared between different countries?

Mr. VAN ANTWERP. I think if we adopt a neutrality policy that we ought to stand or fall on that policy. I certainly do not believe in the umpire changing the rule book while the game is going on.

Mrs. ROGERS. We have a so-called neutrality act now which has never been enforced.

Mr. VAN ANTWERP. When the so-called neutrality act was adopted, a great many of us were quite hopeful for it but as time passed, we discovered some things in there that needed remedying. We do that in a lot of things in this life; from day to day we decide that things should change, but after once we embark on a measure we should carry through with it during the time that that measure once starts to be enforced; that is, in the event of an emergency, if we adopt a policy under the bill, we should not stop in the middle and change our policy; we ought to go through with it.

Well, now, we have plenty of time to change our neutrality policy because we are not, at least technically, involved in any belligerency.

Mr. BLOOM. You do not believe in naming the aggressor nation?

Mr. VAN ANTWERP. No, sir; not for the purposes of any neutrality bill.

Mr. ALLEN. Mr. Chairman, you speak of certain action to amend the present neutrality law; Mr. Van Antwerp, how do we know it needs amending when it has never been enforced?

Mr. VAN ANTWERP. I think that I cited in my formal statement several cases where, if it had been invoked, it would have been very detrimental to neutrality; maybe you gentlemen do not think it does, but we, of the Veterans of Foreign Wars, believe that past events since the enactment of the present neutrality law justify its amendment.

Mr. ALLEN. I think a lot of us feel that it should be amended. I was just trying to clarify your own attitude as far as the committee is concerned.

Mr. VAN ANTWERP. Our organization, I might as well admit, was very strong for the present neutrality act and I think had as much to do with urging its passage as anybody, but we all see the error of our ways sometimes, and sometimes circumstances change, and new demonstrations of the principles that people did not think existed, appeared.

Mrs. ROGERS. Of course, if the present so-called neutrality act were enforced with the present cash-and-carry provisions in it, it would be a pro-Japanese, pro-British bill, because they are the only countries that have the ships and the money, to buy our commodities of war.

Mr. VAN ANTWERP. That is right. That is just our attitude.

Mrs. ROGERS. And would really not be in effect neutral.

Mr. VAN ANTWERP. That is one of the reasons why it isn't enforced at the present time.

Mrs. ROGERS. What do you think that we can do to stop this present tremendous propaganda that is going on in the country, one group fighting against another group? I think it is very alarming and ought to be stopped if possible. We are all Americans.

Mr. VAN ANTWERP. Sell them more Arrow shirts instead of brown shirts.

Mr. BLOOM. You believe that there should be no politics in neutrality?

Mr. VAN ANTWERP. I think that we should have more American ideas inculcated in these people, and suggest that when they go out and try and laud foreign ideals, that we urge the adoption of American ideals rather than some of these foreign things. We have got a vast propaganda machine at work in this country, if you are to believe some of the articles that you read. I hope that you read this first article in the Saturday Evening Post this week, telling you of some of the propaganda systems and the way things go on.

Mrs. ROGERS. I think that perhaps we could help some of those groups, to become better Americans.

You do a great work in Americanization; I know it is one of your chief things, of your program, and it is wonderfully fine, I think.

Mr. VAN ANTWERP. Yes; it is.

Mr. IZAC. Commander, wherein has the present neutrality bill failed in what you hoped of it?

Mr. VAN ANTWERP. Well, the United States is still neutral, if you mean that, but a possible application of it might have involved us so that we would not still be neutral.

Mr. IZAC. Well, now, we are all endeavoring to keep this country out of war, that is the reason for a neutrality bill, of course. We

passed this bill that is now on the statute books, and we have been through some very grave times. I think everyone will admit that certainly not since 1918 have we been through similar serious difficulties and disorders throughout the world, as we are just passing through.

Now, this country is not at war. This country had a very good opportunity to go to war at the time of the sinking of the *Panay*, for instance, and we did not go to war. We had this on the statute books, and still there was no war, that is, in which we engaged.

Similarly, in the Spanish trouble, we kept out of the war, and you say we did not do it right. How should we have conducted ourselves to have kept more out of war than we did?

That is the point I am making.

Mr. VAN ANTWERP. Was the Neutrality Act invoked at all?

Mr. IZAC. Yes; in the Spanish war; certainly.

Mr. VAN ANTWERP. Yes; the Spanish war.

Mr. JOHNSON. And the Italian-Ethiopian War.

Mr. VAN ANTWERP. Perhaps; but you could see where we would have gone astray over in the Orient, can you not?

Mr. IZAC. Well, I would have said the result would have been the same.

Suppose the President had said there is a state of war existing in the Orient, that result would have been the same; Japan would have been the only one that could trade with us, because she has the money and she has the ships, that is, she has a certain favorable trade balance, because we continue to buy her silk, she could still come over here and get scrap iron, it would not have changed that at all, even if we had invoked it, the net result would have been exactly the same.

Now, as I understand the Veterans of Foreign Wars suggestion, we are not to have any embargo of any kind on anything, if nations want to come over here and get the goods they can get anything.

Do you not think that that is one of the surest ways to get us into war?

Do you not think that the instant a submarine lying 3 miles off the Statue of Liberty sinks six or eight vessels out there, that the American people are going to be so aroused they are going to say, "Well, let us get them out of the Western Hemisphere. We do not want war brought that close to us. We want our own freedom of action. We want to trade as we see fit."

Mr. VAN ANTWERP. Were they aroused when the *Panay* was sunk?

Mr. IZAC. Yes, sir.

Mr. VAN ANTWERP. Did they demand war?

Mr. IZAC. A good many did.

Mr. VAN ANTWERP. Not enough to cause anybody to take any action.

Mr. IZAC. Well, there were, how many people killed in that? I think only two, two or three; and there was very little loss.

Mr. VAN ANTWERP. There was hardly a person in America that did not see the films, not to read it in the paper, but see the actual films depicting the entire affair from the beginning to the end, and still there was not any demand for war by the people.

Mr. IZAC. But there is only one slight incident, and now continue with a succession of those, right off New York, right off Chesapeake

Capes, or right of Los Angeles and San Francisco, and I believe that it would be the surest way to have our people embroiled.

Mr. VAN ANTWERP. Did the citizens of England, who certainly are no less vociferous than our citizens, did they get out and demand a war, that is, effectively demand a war, because a hundred British ships were sunk in the recent Civil War in Spain?

Mr. IZAC. Yes; they did.

Mr. VAN ANTWERP. Did they effectively?

Mr. IZAC. They could not get it across, because Mr. Chamberlain represented the powers that be, as it is called in the city of London, and that is the reason they did not offer a stiffer resistance, but the people generally, I would say by listening to the speeches in Hyde Park and around about, the people generally were against Chamberlain's policy.

Mr. VAN ANTWERP. It is strange they did not demand that the Government go to the people, which they could do very easily, and it is different than our country.

Mr. IZAC. I still think that we have more democracy and more freedom in this country than the British do.

Mr. VAN ANTWERP. I do, too, but they could have demanded that the Government go to the people on that issue much more readily than we could, because our Government continues for the term of its election unless we have recall petitions, or something like that, but it is more simple for them to change their government on an issue, and there was no move in England to change the government.

In fact, every measure the government proposed received the confidence of the House, did it not?

Mr. IZAC. That is correct, it did, but by some very narrow margins. When Anthony Eden was leading, the reaction was terrific in England, and I believe that if Mr. Chamberlain had continued his policy—he has made an about-face as you know—that his ministry would have come to an early end, but that is neither here nor there. The thing we are driving at is how best to write a neutrality act keep this country out of war.

Now, as I understand you, you prefer that we permit business as usual, is that right?

Mr. VAN ANTWERP. That is right.

Mr. IZAC. Trade as usual?

Mr. VAN ANTWERP. That is right, but no loans or credits.

Mr. IZAC. No credits?

Mr. VAN ANTWERP. No credits.

Mr. IZAC. You realize that there are 7 billion dollars worth of our securities held in foreign hands, and that as long as that 7 billion dollars is available, we can be engaged in this war to the extent of at least 7 billion dollars worth, without granting one single dollar of credit.

Now, that is an actuality at the present time, so it is not as simple as it seems.

This war is going to be brought to our doorstep, in my opinion, under your plan or practically any other plan that has been suggested, unless we declare an embargo, and refuse to sell to these people, or trade with these people.

Mr. VAN ANTWERP. Well, of course, that is more or less a matter of opinion. If we were to adopt any kind of an embargo program in a neutrality act, as against one or both belligerents in war, various economic interests, both labor and industry, would soon be working for its repeal or modification, in order to protect or promote their own potential incomes, if the invocation of the embargo provisions in any neutrality should threaten or jeopardize their employment or their possible profits.

Mr. IZAC. It is strictly an opinion.

Mr. VAN ANTWERP. We believe what we have suggested is the best neutral course. Now, your opinion is perhaps as good as mine, but the opinion that I am presenting here is the consolidated opinion of the members of our organization, as near as we can make it out from their actions by encampment resolutions.

Mr. BLOOM. You go twice as far as the Pittman bill, then, would you not? The Pittman bill only makes cash and carry on commodities, but absolute restriction on munitions of war; but you say on both?

Mr. VAN ANTWERP. Yes, sir.

Mr. CHIPERFIELD. If they do it at their own risk.

Mr. BLOOM. Yes; they are supposed to carry it on their own ships.

Mr. CHIPERFIELD. At their own risk.

Mr. VAN ANTWERP. We would permit American vessels to carry it out at their own risk, if insured.

Mr. BLOOM. That is, they would carry it out at their own risk. Suppose the American vessels carry it out at their own risk and they carried it out on credits?

Mr. VAN ANTWERP. No, sir; we insist that there should be cash on the line; no credits.

Mr. BLOOM. Then it is a complete cash-and-carry proposition, and you would have section 1 and section 2 of the Pittman bill remain without any restrictions, only the cash and carry and American ships?

Mr. VAN ANTWERP. That is right.

Mr. IZAC. It is more lenient, because under the present act, American ships cannot carry those.

Mr. BLOOM. That is what I am saying. The commander would go much further than the present act, or the proposed Pittman Act, or any other act.

Mr. IZAC. In other words, that policy practically incorporates the old idea of freedom of the seas, with the single exception of cash on the barrelhead.

Mrs. ROGERS. I suppose, under the cash-and-carry plan, if the commodities were carried in the ships, and the belligerents rent ships, that say, if Germany was fighting France and England, and while it was going on English ships, Germans would be very careful as to whether those ships were English or even our own ships, before they sank them, the submarines would be very careful as to which; that she is not going to be sure that it is a British ship, particularly if she is annoyed with us?

Mr. VAN ANTWERP. That is probably true.

Mr. BLOOM. I believe that you stated that providing the shipowners have insurance, life insurance, for the sailors; is that right?

Mr. VAN ANTWERP. Yes; insurance for their ships, and—

Mr. BLOOM. If they are going to be permitted by this Government to do what you want them to do, where do you expect them to get the insurance?

Mr. VAN ANTWERP. Well, in these countries of which I speak, the minute they go into war, the Government sponsored a mutual insurance corporation somewhat similar to our World War Risk Insurance Bureau. They underwrote them for a premium. A mutual insurance company, or private insurance company could take care of that.

Mrs. ROGERS. For disability?

Mr. VAN ANTWERP. Yes; or death of those on board American shipping vessels.

Mr. BLOOM. Your idea is give them permission to sell munitions or commodities to any of the belligerents, carry them in our own ships, and then the Government is to have a mutual insurance company to insure the ships, the cargo, and the lives of the sailors?

Mr. VAN ANTWERP. If the ship owners do not wish to do that, why, they would not have to, but they would know before they started out that they were traveling at their own risk and that the Government would not be responsible.

Mr. BLOOM. If they could not get the insurance, then they would not be allowed to sail the ships?

Mr. VAN ANTWERP. That is right.

Mr. BLOOM. Then they would not be allowed to sail them because they could not get the insurance.

Mr. VAN ANTWERP. They could, through a mutual company. In any event, such a policy would be one of actual neutrality.

Mr. BLOOM. The Government does not insure anything. They do not insure their buildings, or anything that I know of.

Mr. VAN ANTWERP. But I am saying that during the last war, during the World War, these foreign countries, Norway and Sweden, sponsored that very thing. They did not insist on maintaining freedom of the seas in dangerous war zones.

Mr. BLOOM. We are talking about the United States.

Mr. VAN ANTWERP. But I am giving you an example of where another country did that during the war. If our country should again insist on its right of freedom of the seas in war zones, such insistence would probably again involve the United States in war.

Mr. BLOOM. Do you know of any other country that has a neutrality act?

Mr. VAN ANTWERP. I do not know of a country that has one.

Mr. BLOOM. I do not know of any country—I have never—Denmark has one.

Mrs. ROGERS. Do they enforce it? It is not much use to have one if they do not use it.

Mr. JOHNSON. Chairman, I would like to ask a question.

Mr. VAN ANTWERP. A mutual insurance company—the Government could assist in its formation, but it would be a private mutual company, not guaranteed in any way by the Government.

Mr. JOHNSON. You contemplate the formation of such a company?

Mr. VAN ANTWERP. But it would be a mutual company, with the Government only assisting in its formation.

Mr. JOHNSON. Commander, what change, if any, would you make in the present neutrality law which makes it unlawful for an American to travel upon a belligerent ship?

Mr. VAN ANTWERP. We would keep that section right in there.

Mr. JOHNSON. You would not change that?

Mr. VAN ANTWERP. No, sir.

Mr. JOHNSON. In other words, your idea, or that of your organization, is that that should be preserved, the provision in the present neutrality law prohibiting the loans and credits to belligerent nations, that should be kept in?

Mr. VAN ANTWERP. That is right. Such provision we consider of the utmost importance.

Mr. JOHNSON. And you would, of course, still believe in maintaining the Munitions Control Board, that issues permits for shipments; you think that that is a good thing?

Mr. VAN ANTWERP. Yes, indeed.

Mr. JOHNSON. But you would repeal the provision prohibiting the exportation of arms and munitions and implements of war, that would be repealed in toto, and you would have a provision similar to the present cash-and-carry plan which would be applicable to all commodities, both war materiel and otherwise, where they carry it at their own risk?

Mr. VAN ANTWERP. That is right.

Mr. BLOOM. Then I understand you, Commander, it is your idea that this law should not be changed or amended or repealed in any way during the time of the war of any foreign country?

Mr. VAN ANTWERP. That is right, after it shall have been amended as I have here suggested.

Mr. ALLEN. Mr. Chairman, what is the difference in principle between a private citizen traveling at their own risk and American ships and sailors carrying what is generally known as contraband or implements of war at their own risk? What is the difference in principle?

Mr. VAN ANTWERP. I think that possibly our antipathy and the antipathy of a great many Americans toward the permission to Americans to travel on ships of belligerents is engendered because of the experience of the *Lusitania* in the last war; unquestionably, in my mind.

Mr. ALLEN. You think the American public would draw a line of distinction there?

Mr. VAN ANTWERP. I think so; yes, sir.

Mr. BLOOM. For the benefit of the committee, the question you asked, Mr. Izac, the gentleman sitting in back of me, Mr. James, United Press cable staff correspondent, was on the *Panay* at the time it was bombed. He says there were four killed, but several other people on some of the other ships were injured. Do you know how many?

Mr. JAMES. There were approximately five people on the ship, and I think that the majority, more than 40, had wounds of one sort or another.

Mrs. ROGERS. You were not injured?

Mr. JAMES. I was not injured.

Mr. VAN ANTWERP. It was not their fault, though, was it?

Mr. JAMES. No; I think not.



Mr. BLOOM. Thank you, Commander.

The committee feels very grateful for your statement and views with reference to neutrality.

Mr. VAN ANTWERP. Thank you, Mr. Chairman, and I also thank the committee, and if there is anything that the Veterans of Foreign Wars can do to help this committee in any way, I wish that you would call on our organization.

Mr. Rice, our legislative representative, here at Washington, will be glad to supply you with anything within our power, or to assist you in any way.

We cannot express ourselves too strongly in favor of actual neutrality, and let me say that in traveling over this country, from the Atlantic to the Pacific, and from the Gulf to the Lakes, what the American people interpret under the word "neutrality" is "peace"; that is what they understand.

Mr. BLOOM. Dr. Fenwick is the next witness. Members of the committee, we have Dr. Fenwick, who appeared before the committee last week, and I believe some of the members wanted to ask him further questions.

**STATEMENT OF DR. CHARLES G. FENWICK, PROFESSOR OF INTERNATIONAL AND CONSTITUTIONAL LAW AT BRYN MAWR COLLEGE—Resumed**

Dr. FENWICK. The testimony of the gentleman who preceded me only bears out the fundamental thesis that I tried to emphasize last time, that neutrality is an inherently illogical situation, because you are trying to combine two inconsistent things. You are trying to be politically isolated but economically in contact. You are trying to avoid political entanglements, but you are willing to risk economic entanglements. That fundamental inconsistency goes all through neutrality from the days of Jefferson down to the present bill.

I shall not take the time of the committee to go back, but I would like to emphasize once more our criticism of the present legislation, as a lead to what we propose, or what we hope the committee will take up.

We find the present neutrality legislation based upon false assumptions. The assumption is that war is inevitable; there is nothing that we can do about it; it is too bad; it comes about and all we can do is throw up our hands and say, "How terrible," and declare our neutrality.

That, I think, was indeed true in Jefferson's time, but I challenge that assumption at the present day. I think that we have passed the time when any nation ought to have the right to take the law into its own hands and declare war at will on another nation and thereby wreck the trade of neutrals and cause incalculable losses to other people in other parts of the world.

Now, whether we like it or not, it is clear that if a war breaks out in Europe tomorrow it is going to do us great harm, great commercial harm, great financial harm, and great social and moral harm. I need not elaborate on that. The stock market has told us that for months, and we do not have to be market investors to know that it registers business, and when business sees a war coming it knows what will be the effect on the United States.

Even if we are neutral, that does not affect it at all. We suffer terribly, and up to this time we have just had to shrug our shoulders and say that it was too bad, but there was nothing that we could do; it has come, but let us keep out of it when it comes.

We challenge that false assumption. We think that the world has now reached a point where war is not inevitable and that it can be avoided, and it is only a matter of finding a policy by which to avoid it. We challenge the law, then, on the basis that it recognizes the inevitability of war, and all it does is to try and keep us politically isolated; but the present law permits all sorts of economic entanglements. It permits economic contact, and it does it in a very unfair way.

The second line of our attack carries out that point. We criticized the law as rigid; it is so rigid that it applies the same rule to the East as to the West. War breaking out in Europe or war in the Far East, the same rule is applied.

I think that the gentleman who preceded me has very well brought out why the law was not applied to Japan and China. The American people could not stomach applying the legislation in that situation, knowing that it would throttle the Chinese and feed freely the Japanese who had torn up a treaty in our faces, and who were, if anybody could be, the aggressor.

It was too much for the American people, and after a little flurry of protest against the administration for not applying the act, nothing was said. I doubt if there are any today who want to see the law applied to Japan and China, just because of its inherent unfairnesses.

May I put that in graphic form by saying that the present law lets geography and power decide our foreign policy, and geography and power are not a proper basis. If we are to favor anybody, our favoritism ought not to be on the basis of geographical location, or actual power. Today we favor a country if it happens to be situated as Britain and Japan both are, and if they command the seas.

That does not seem to us a logical basis for an American foreign policy. We ask then in our proposal that the United States determine its foreign policy in its own national interests, that we realize first that we have a national interest in the maintenance of law and order in the world. That we have a national interest, not merely an economic one, and not a crusading one, an evangelical one, if you want to use that word, which has been used of me, but a direct national interest in the observance of treaty obligations.

Therefore our fundamental principle is that when solemn treaties are broken, treaties of the most solemn kind, namely treaties not to go to war, and may I emphasize that we are not dealing with ordinary treaties and we are not referring when we say "treaty breaker" to a nation that might break a minor clause of a commercial treaty, we are referring to the breach of treaty obligations when the treaty relates to not going to war.

We say that we have a direct national interest in the maintenance of treaties. The good faith of treaties is essential to peace of this country, it is essential to the maintenance of any law and order in the world, and once that fundamental principle is allowed to go into the discard, the United States must suffer irretrievably, whether we are able to succeed in being neutral or not.

We cannot live peacefully in a lawless world. The foundation stone of international law from the time that there was a law has been the good faith of treaties. Our proposal therefore is to maintain a principle, to apply a principle, that there shall be no trade of any kind with a nation that breaks its treaties with us.

The particular measure which we have been sponsoring, the Thomas amendment in the Senate, and the Geyer resolution in the House, deals with it in one particular way. We are not insistent on that way, and in my testimony before the Senate committee this morning, I suggested that there were several other ways in which the principle we want could be put into effect.

We are ready to go along with the Pittman so-called Peace Act of 1939—we would rather call it, if the Senator will agree, the National Security Act, because we think that that really describes it better than peace; there is not really much peace in the Peace Act, but that is a matter of names. We are quite ready to go along with that provided that we can have the principle introduced into it.

May I then come to technical details for a moment. Under the Geyer resolution—we shall assume that war has broken out, and for clarity sake I shall say between Japan and China. Immediately the President puts an embargo, complete on both sides. In order to enable the President to do that the Thomas amendment and Geyer resolution abolish the cash-and-carry plan with regard to what we call raw materials, and put them with arms and ammunitions. There is a complete embargo then on both, and the President examines the situation, and he says, "I find that Japan has violated the Nine Power Treaty. There doesn't seem to be any question about it," and if I may interpolate while the President is speaking, even the Japanese now admit that they have violated the Nine Power Treaty, and they say that by reason of a change of circumstances, a change of conditions, the treaty is no longer binding.

We find this curious situation, rather subtle if you like, although also rather naive, that a country will change the conditions under which the treaty was entered into by its own lawless act, and then offer that change of conditions as a result why the treaty should no longer be in force—that is really what the Japanese have done, whether you call it subtle or naive.

Be that as it may, the President thinks this out, and he says, "I find that to be the case, and I find on the other hand, that China has broken no treaty with us in going to war, she is merely fighting in self-defense."

So the President comes before the Congress and says, "Gentlemen, we ask you to lift the embargo against this country that has done us no wrong, and we ask you to continue it as originally imposed against the country that has violated its treaties with us." In other words, no trade with treaty breakers. Understand, this means treaties not to go to war.

Now, Congress says to itself, "Well, yes; that is all very well; we all agree that Japan has broken a treaty, but we are a little afraid that if we lift the embargo for China, that might mean that Americans would go to China and take risks, and some American vessels might be captured on the way to China, and Japan would sink them, and then there would be an embroilment."

Congress is free to come to that conclusion which, personally, I can well support. Congress then says to the President, "You can lift this not in whole but in part, you can put China on the cash-and-carry plan." Then it is a matter for China to come if she can hire the ships from Norway or Sweden or anybody, and buy for cash, and carry it in their own vessels, so that no incidents will arise involving American citizens. So that we bar out completely any risks, and in that respect you see we parallel the Pittman idea, that is also before the House in Mr. Hennings' resolution.

There we stand, then, with no possibility of complications arising from American vessels going to China, because China would be on the cash-and-carry plan.

You might ask, then, what have we accomplished? Where is this principle for which you are fighting? The principle is that we say to Japan, "You have broken a solemn treaty; we will not trade with you. No trade with treaty breakers."

Mr. BLOOM. Suppose that Japan says that she has not broken a treaty?

Dr. FENWICK. We are in a privileged position to determine our own foreign policy, and why should the United States have to leave Japan to determine our foreign policy.

Mr. BLOOM. Supposing that she says that she has not broken it, are we going to decide that she has?

Dr. FENWICK. We are going to decide just as a thousand times before in our foreign policy we decide that a country has broken its treaty, and if they say, "We have not," nevertheless we say that it has, and we take action accordingly.

Mr. BLOOM. That was in peacetime.

Dr. FENWICK. This would be in peacetime, unless Japan chooses to lose her head completely, and declare war on us, which is not conceivable, and I don't think there is a military man anywhere who would admit that Japan, finding that we continued an embargo which we originally placed, would find in the mere exemption or partial exemption of China, a reason to go to war. The Japanese are not quite out of their minds; I wish that they were, but they are not. They know that to go to war with the United States would be suicide, and the Japanese would certainly not declare war on us.

I should say that the United States was in a very happy position, happy in one sense, in an unhappy world, that nobody will ever declare war on us, as things now stand. We are too powerful, and we can just sit back and build up defenses certainly, I am very far from suggesting that we weaken our defenses, we ought to be in a position to take a stand for a principle and let no man attack us, and I do not think that there would be any question that Japan would.

Mr. ALLEN. May I interrupt? Do we understand, and I do not myself, in the Pittman bill that all commercial intercourse ceases when the President makes that request, names the aggressor and makes the request, or do we just place a contraband against the shipment of certain articles? Do we continue to buy from Japan, using that as a specific example? That is, although we refuse to sell certain articles, will we continue to buy silk?

Dr. FENWICK. If the other side would let us.

Mr. ALLEN. China could not stop us very well.

Dr. FENWICK. Under the Pittman plan, both sides are put on a cash-and-carry basis. Both sides would be free to come to the United States

in their own ships or in hired ships, and buy for cash what they wanted and take it away. That is Senator Pittman's new proposal.

Mr. BLOOM. Is that munitions?

Dr. FENWICK. Yes.

Mr. BLOOM. In the amended bill?

Dr. FENWICK. Yes. I think that your Hennings Peace Act<sup>1</sup> is the same, page 89 of your committee print. That says that they may not be carried in American vessels, and that it shall be on a cash basis. In other words, there will be no American interest and no title in the property.

Mr. ALLEN. May I follow up my question?

Mr. BLOOM. Yes.

Mr. ALLEN. Dr. Fenwick, when by enforcing the provisions of the Pittman provisions, if they ever became law, would withdrawal of that kind aid by declaring an embargo? We would be financing the war just the same by continuing purchases of silk. Every time that we buy a boatload of silk from Japan we are financing Japanese aggression against China to a certain extent.

Dr. FENWICK. And in the Pittman proposal Japan could buy on the cash-and-carry basis, and they could sell silk to us.

Mr. JOHNSON. There is no inhibition on purchases from other countries.

Dr. FENWICK. The law says "export or transport," that is all, and not "import." I am not defending the principle, but I would like to discuss it.

As I understand the Pittman proposal, the idea is to put it all on a cash-and-carry basis, plus the fact that no American vessel can take it. Consequently there would be no possibility in another war of Americans being involved in any of the incidents that gave rise to our entanglement in 1917—that is the proposal.

It was suggested this morning that after the Pittman proposal had been adopted a ban might be put on Japan direct and explicit. Would not that be just as satisfactory to our group? The answer was, "Well, that does for practical purposes what we want, but it misses the principle."

We think that it would be far more dangerous to legislate directly against Japan, which we think would have a challenging effect, than if you laid down the principle of the treaty breaker, and consequently we are asking Senator Pittman, at least, to include our principle as a last clause in his bill.

Mr. VORYS. As I understand, if you did that in view of the world-wide situation, if you stuck in the Thomas amendment some place, merely to hit Japan, we would not fool Japan very much, would we? That is, Japan would know, and knows now that what is stirring the American people to the very core is the feeling that they are partners with Japan, and they want to stop it, and that is what they want to stop, is not that true?

Dr. FENWICK. Yes, sir.

Mr. VORYS. And Japan knows that?

Dr. FENWICK. Yes, sir.

Mr. VORYS. Well, would it not be less dangerous to just take care of that situation, where public opinion is firmly set, and not attempt

<sup>1</sup> See p. 632.

to draw some other bill that would require ignoring the terms of that law, right from the very start, and not enforcing the thing equally against all treaty breakers?

You have said today you do not intend that we shall enforce the so-called Thomas or Geyer<sup>1</sup> amendment against all treaty breakers.

Dr. FENWICK. I said that the other day, perhaps.

Mr. VORRS. You said that today, did you not; that is, we look silly for some minor infraction of a treaty with us, so we are discussing a law we do not intend to enforce.

Well, would we not be far better off, instead of stating a principle that we do not intend to adhere to——

Dr. FENWICK (interposing). We expect to adhere to it, sir. May I point out, the resolution reads, "signatory to a treaty to which the United States is a party, is engaged in war with another State in violation of such treaty." The treaties we refer to are not commercial treaties, they are treaties not to go to war, most sacred of all treaties, the treaty for which we make our plea.

We are not dealing here with all treaties; we are not asking you to sign up something which, when a treaty breach comes, would not be carried out. We are only referring to a particular class of treaties, treaties not to go to war.

If such a treaty be violated we ask you not to trade with treaty breakers. You can put it in positive form; you can put it in negative form; it does not matter to us, primarily, which form you use; but we want to try and get the principle.

Mr. JOHNSON. Congress passes all of that?

Dr. FENWICK. Yes.

Mr. FORD. Would this be an ex post facto provision to treaties already in existence?

Dr. FENWICK. There would be no ex post facto character. Today, for instance, the Nine Power Treaty is in existence, and if it is violated by Japan, there is no reason why we should not say, "This is a very serious act. This is a solemn treaty for peace. You have violated it, and we can not trade with you."

Mr. FORD. Under that treaty, under section 7, you have got to have a conciliation, you have got to come together, as I remember the Nine Power Treaty.

Dr. FENWICK. Not to come together to decide whether there has been a violation; to come together to consult on any change of conditions in the Far East, and it is that which is one of the points on which we insist that Japan has violated it.

Mr. FORD. The violation is a change, and therefore they come together with a change or violation in that case.

Dr. FENWICK. We say that Japan, in going ahead with her campaign against China, has violated that very provision, among others.

Mr. FORD. So far as section 7 of that Nine Power Pact permits the nations to come together and discuss this situation, now we are imposing another penalty which was not in that act, but is more or less of an ex post facto thought under this guise.

In other words, there is no penalty in the Nine Power Pact, as I remember it.

Dr. FENWICK. No penalty suggested there at all, nor is there in the Kellogg Pact, and I should rather wish you not consider this cessation

<sup>1</sup> See p. 322.

of trade in the light of a penalty; this is primarily a way of protecting our own national interests.

Look at it this way: For 2 years--and this has been emphasized by yourselves more forcibly than I can--we have been feeding the war machine of Japan. If there is any one potential enemy in the Far East, let us be quite frank about it, military men discuss it--if there be a potential enemy, that enemy is Japan, and we do not anticipate any challenge from Siam or from China.

We have been feeding that war machine; we have been enabling Japan to continue violating the treaty with us; and we have in a sense been accessory and accomplice--that is not quite a good word, but we surely have been accessory to the conduct of Japan and we are feeding the Japanese machine which may next year be turned on us.

Certainly we are enabling the Japanese machine to carry out its lawless acts. Without our gasoline and our scrap iron, they would have stopped a year ago. Without the sales of silk to us, which are not, however, covered by the present law, if the American public had just enough realization of what is going on, Japan would have been stopped, but they have not that knowledge; they do not think in time; you have to do the thinking for them and tell them this: As your representatives, we find this would stop this lawlessness.

Now, is it a penalty, after all, to stand up for the integrity of treaties? All through our history we have stood up for treaties. I was asked the other day if I could cite any particular case of sanctions, and I answered no; it does not seem that as yet we have put into effect anything quite like this, but we have come near to it. We are now putting into effect against Germany in 2 or 3 days a limitation of trade, based upon the fact that we think she has violated a treaty with us, much less important treaty than not to go to war.

All through our history we have shown our indignation for the breach of treaties and treaty obligations by doing something about it in minor ways. Sometimes we have retaliated, but we ask here as a principle, put it into your law, whatever form it takes, that there be no trade between the United States and the nation that goes to war in violation of its treaties with us.

Mr. FORD. Put that into the specific treaty.

I do not think anybody would have any objection--that every treaty you make you put that in there, to use a diplomatic weapon, and then it becomes a part of the agenda of that treaty, but where you add it after the fact I think it has a different status.

Dr. FENWICK. Do you not think, sir, you are a scholar of international law, that after all, that is implied in all treaty obligations, that when a treaty is broken we are not obliged to continue to trade with the country? This is not doing something--taking some vigorous strong-arm method--we are just not trading with it.

It would be just exactly as if a man--if the grocery store has wronged you and cheated you, you decide that you will not trade with that man any more. You would not call that quite a penalty, and you would not say, "When I originally went to the grocery, I ought to have said to him, 'If you do not treat me fairly, I will not deal with you any more.'"

No, indeed. You just stop dealing with the man.

This is a very weak penalty, if you must call it a penalty, but the reason we lay such stress on it, we feel that there is a principle in-

volved, and that principle is, respect for treaty obligations, without which we believe that there will be no law and order in the world.

At least, the United States, in its own interests, standing alone, not asking cooperation now, although obviously it would have been more desirable a few years ago, but standing alone, we say, "We will not deal with treaty breakers."

Write it into the Pittman Act, or take it with the Geyer resolution, and we prefer the Geyer form, but we are ready to go along with either if only you put in that principle.

May I explain briefly how it would work with the Pittman proposal?

Under Senator Pittman's plan, war breaks out between Japan and China, and immediately the Government puts both on cash and carry. Then the President finds that Japan has violated a treaty, and the President comes to Congress and says, "Gentlemen, I find that this state has violated a treaty, and the other is innocent of any such wrong-doing to us. I ask you to discontinue trade altogether with that country."

That leaves the other country on the cash-and-carry-plan.

In the case of China, of course, obviously China would get very little on the cash-and-carry plan, but we are thinking more of maintaining the principle. We are thinking primarily of depriving Japan, which, of course, indirectly, would be of enormous aid to China. If Japan could not get cotton and oil and scrapiron from us, within a very short time her machine would bog down.

I suppose we are all quite aware that the Japanese would give anything to get out of this mess that they are in now, if they could possibly save face. The curse of war is, once you get into it you are in a jam, and no way of getting out with honor, and honor has cursed the world from the beginning. But this would bring it to an end quickly. The Japanese are subtle enough to find a good excuse and get out of it.

Our action would bring that war to a close in 3 months, in my judgment, especially if you went on and did what I wish you would do, cut off imports, but that is not before us, and I would rather—

Mr. JOHNSON. Imports are not involved in either of those bills.

Mr. Izac. May I ask a question of the Doctor?

Unfortunately, any step toward economic sanctions taken today is the first step to war.

Dr. FENWICK. Would you prove that to me, sir?

Mr. Izac. Well, that is the general feeling, that is what we hear. We read it in the papers every day.

Now, frankly, I believe that is the finest way to bring nations to terms—I mean, the treaty breakers, by exercising the power that we alone have, of all of the nations, "You may trade with us, as long as you observe the rules of the game, as long as you adhere to the principles of this treaty which we signed with you, but the instant you no longer do so, then we will have to deny you trade in our zone of influence."

But this Nation, and certainly this Congress, is not in that frame of mind, because I can see it every day, anything that is mentioned on the floor here, on economic sanctions, means war tomorrow.

Dr. FENWICK. I agree with you on that, and say that, far from meaning war, what I propose here is a way of keeping out of war.



For myself, if I may take another minute, I am very doubtful if war breaks out, if it would be possible by any law that you could pass to restrain American public opinion in time. Obviously, we are thinking in terms of Europe. If Hitler and Mussolini defy the President's appeal, go into Poland and Poland resists and the war is on, London will be bombed and wrecked, Paris will be bombed and wrecked; the British expect it, and it is likely.

News of that comes in to the American people, with horrible stories. Mr. Hinton, who is here present, in an article in the New York Times last week, I think, gave a very graphic story of the way there would be a build-up of emotion. We do have a feeling toward right, and we are not so unemotional that we can stand aside in the presence of flagrant things. We shall know who began this war, especially as Britain and France have now said to us, they will come into conference on the basis the President proposes, the conference that we all feel is the only way we can settle affairs in this world.

They turn thumbs down on the conference; they go to war, they bomb London and Paris, and it will not be 6 months before American public opinion has been built up to the point where you cannot hold them back, law or no law. You know what public opinion is, and it will stampede us in, and what will happen? We will go into a war that is already begun. I do not think we ever need to send a boy abroad. I think, if I may—the gentleman has gone, the commander of the veterans—there is no need of sending any American boy abroad out of this country; we have got the economic power to stop any country. The fact is, I have said again and again, that you do not need, if Japan declared war on us in a moment of insanity, you do not need to fight her; all you need to do is sit down and stop her trade.

Mr. BLOOM. You mentioned Paris and London being bombed—how about Berlin? Is that city not going to be touched at all?

Dr. FENWICK. Let us assume that the British Fleet is disabled; let us assume the worst. What if Berlin is bombed? I studied in Berlin; I have many friends there. I am not so belligerent that I would see them butchered from the air. If Rome is bombed it will tear my heart. I have a very strong feeling, much as I have opposed this dictator in Italy, I cannot feel but that the Italian people are fundamentally a fine, decent people, bullied into this situation, because they really feel, and there is much to be said for them, they really feel that they have been starved economically.

I wish that I could take a moment on that. Would you let me take a moment on that?

Mr. BLOOM. Go ahead.

Dr. FENWICK. Look at the case of Italy. I cannot condemn the dictator too strongly, but there is a country of 40,000,000 people that has no iron, no coal, no oil, no copper, and no cotton. Let us stop there.

They cannot live on art. They cannot live on tourists, they might live on a few more tourists, if you could stimulate it, but they cannot rely on that.

In 1920 they did not complain of adversity; they did not ask for anything, but in 1923, when our tariff went up, they began to see this was a new world and they might be cut off from trade.

The day an Italian cannot sell silks in the United States, that day he cannot buy oil. The day he cannot sell lemons, that day he cannot buy scrap iron; and when in 1930 we boosted our tariff to colossal heights—I am speaking deliberately, and I hope even if you think I am all wrong you will let me say it—I think that the United States tariff of 1930 did more to condemn Italy to industrial starvation than the denial of colonies to her. There is nothing in the colonies to feed a country; there is no iron, practically; there is no coal—colonies are for the most part—I mean the colonies taken over from Germany in Africa have not anything that Italy wants.

Mr. BLOOM. She has white coal.

Dr. FENWICK. She has water power, but obviously she cannot survive without trade, and the day we say to Italy, "We do not want your trade; stay home," that day we ourselves, not meaning to do it, but we condemn her to industrial starvation.

Is it any wonder that they lost their heads, and a normal, peace-loving people—and nobody who knows the Italians knows them as any other than a kindly, peace-loving people who cannot be goose-stepped, or if it is goose-stepped, it is painful to watch. They have been driven by a dictator into doing frantic things that are unworthy of their civilization, unworthy of them.

Now, obviously, if we are talking long range, as we now are, I think that there will be no peace in the world until, having taken this present stand, which is only one little step, we meet in conference, as the President proposes, and try to remedy that economic situation, and it calls for very far-reaching remedies.

We have got to be very bold if we really mean to do something for permanent peace.

Mrs. ROGERS. May I ask a question there? Would it not mean a lowering of our standard of living?

Dr. FENWICK. Most of us economists think it would be raising our standard of living, by increasing trade. The standard of living goes very low when you do not have any trade.

Mrs. ROGERS. How can they compete with goods made in countries which pay so little unless you raise their pay also?

Dr. FENWICK. It so happens that we have the inventive genius and there seems to be no question at present that we are able to keep always ahead in our inventive genius. What would happen would be that products not now being sold, like cotton, you gentlemen are facing a problem of what to do with cotton; and, well, Italy is facing the problem of how to get cotton, and are you helping?

Mr. BLOOM. She is using synthetic cotton.

Dr. FENWICK. She would rather have the natural cotton.

Mrs. ROGERS. That is what we would want to use also.

Mr. BLOOM. Was not Italy promised the Riviera and Trieste? You say from 1920—and you went as far as Mussolini, and now, Mussolini, from 1919 up to 1937, he was all right, was he not, as far as the nations of the world are concerned?

Dr. FENWICK. Up to 1935.

Mr. BLOOM. He was promised before he went into the war, he was promised part of the Riviera and he was promised Trieste, and that is where—

Dr. FENWICK (interposing). Surely you will not try to maneuver me into a position of trying to defend this.

Mr. BLOOM. You said that he was not promised anything.

Dr. FENWICK. No; I said that Italy did not ask for any colonial concessions at that time, and did not even ask any territorial concessions in Africa, although she did want to go around the Adriatic, where there are Italian cities along the coast of countries that are Slavic in background, but I think it is fair to say of Italy that they did not realize their economic plight in 1920; it was only when tariffs in Europe went up coincidentally with ours that Italy began to see that she could not get anything in trade that she began to look about to get colonies.

Mr. BLOOM. Mussolini was not in power in 1920.

Dr. FENWICK. No, sir; he only came in in 1923, and he at first himself did not see it, until gradually he found these walls rising all around Europe and the United States. And then when Italy could not trade, when she could not sell silks, she could not buy oil, that is all, and she looked around for a place and she picked Ethiopia, because it was the easiest picking, hoping to get oil there, which the United States would not sell her.

Now we are eager to sell oil, but when I say "would not sell her," I mean we would not buy the goods which make or give Italy the exchange to enable her to buy oil.

Trade is a two-way street, as you gentlemen know. If a country cannot sell, it cannot buy. To say to Italy, that we do not want to take her goods, is almost as much as if we wrote into the law we would not sell her anything. Only the American public did not see that.

Mr. VORYS. Your analysis of the Italian situation would not differ fundamentally from your analysis of the German and Japanese situation, would it?

Dr. FENWICK. Not much.

Mr. VORYS. In each case you have a people who feel that they are desperate, at least their leaders do, because they cannot get the resources for their people they feel that they ought to have, just as you worked it out for Italy, is not that your position?

Dr. FENWICK. To a lesser degree, I think, the same thing holds to a much lesser degree, in the case of Germany, and I should say also, to a much lesser degree in the case of Japan, because neither Germany nor Japan found it impossible to get certain essential raw materials from their own areas and Japan had such trade with Manchuria in raw materials that they were available to her there.

I do not wish to take the time of the committee to go over my ideas as to how to reconstruct the world, but the President has challenged us with something which I think is very fundamental, and just to mention it I think makes it necessary to emphasize that if we are considering the peace of the world in long range, any conference which we might assist other states to hold would have obviously to look very deeply into that economic problem. If we do not want to do that, we shall just have to face an endless struggle and, of course, the endless struggle will be reflected here, and it means we have always got to be armed to the teeth at vast expense.

Putting it this way, there will never be any military disarmament unless there is some economic disarmament. Economic disarmament is quite as essential in the world; it is a bigger problem, it

is one that nobody seems to have thought about much in 1920, and it is now gradually dawning on us. I feel that we are far wiser today than we were then, and when I am told, "Why, look at the failures of 1920," my answer is, "We are a good deal wiser now than we were, just as the American people in 1787, when they drew up our present Constitution, were wiser than they were 10 years before, when they drew up the Articles."

Now, could I say just a last word, sir?

The two points we are trying to emphasize are, first, that this is of national interest to the United States, and that we are not crusading to make the world safe for democracy, which, however beautiful an idea, is too vague and abstract to be formulated in concrete terms.

We are trying to protect our right to live at peace in the world. We are trying to protect the most sacred thing in all the world, the integrity of treaty obligations. We are trying to strengthen the cornerstone of any peaceful, law-abiding world.

We know that the Thomas amendment only goes a short way, but it is the present issue before us, and we trust that you gentlemen, when that issue is disposed of, to face some day this larger problem that we have entered into, on the side.

Mr. BLOOM. Any further questions?

Mr. JARMAN. Doctor, if I understand you, it is your thought that under present conditions, no nation will ever attack us. It would not be over 6 months or a year after a general world war, before our people would insist that we get in it; is that right?

Dr. FENWICK. I think that that is a fair probability, sir. We are dealing here with intangibles. Nobody quite knows what the reaction on American public opinion would be. I have cited this article by Mr. Hinton in the Times as showing how emotion can be built up, which no law can stop.

The reason I was discussing it the other day, with the gentleman from Connecticut, the question of neutrality, in 1917, I think that there was an emotional build-up in this country that made us resent violations of neutrality by Germany more than we resented them by Great Britain, do you not, sir?

Mr. JARMAN. Yes; so do I.

Dr. FENWICK. We are a moral people, and we still have human feelings, although some people put it on the matter of how much you make out of war, which I think is rather a low level.

We still respond emotionally to sights of horror, and deeds of horror, and there will be such.

Let us suppose now that Germany goes to war with Britain, deliberately goes into Poland, which will provoke it. Let us suppose that the British are defeated, which is not beyond the range of conception, the fleet of German aircraft wrecks London, and they surrender. Obviously they surrender their navy, and the Germans are not going to leave the navy intact. Either it is sunk by the British themselves, or it is taken over and German names are painted on it.

Is it possible that for the next 10 years we can hope to live in a peaceful world, when Germany will be thinking of Canada, which was surely party to that fight, when Germany will say, as she now says—there is nothing too bad or vicious for Germany to say of the United States today; she calls our President by all sorts of names,

and where she is interested in getting control, economic control, she will have the power to do it, unless we continually build to defend this whole continent against a new powerful Germany, with the British fleet in its possession, and a Japan ready to attack us on the Pacific.

If you think that any concessions to Japan today of any kind, no matter what, say by letting this present law stay on the books, the Japanese will come to love us and we will be in less danger of attack—well!

Mr. BLOOM. If Germany does that, which you outlined here, with Great Britain, what is she going to use for money?

Dr. FENWICK. I take it that the defeat of Great Britain will not mean that Germany will overlook the opportunity of the British reserves, which are considerable.

Mr. JOHNSON. They did not overlook it in Czechoslovakia.

Mr. BLOOM. It is over in London. It went out before they got to it. They were supposed to get \$80,000,000, but they did not get it. It was all out before they got there.

Dr. FENWICK. My suggestion would be—we are dealing here with intangibles and imponderables, nobody can prove anything—but my suggestion is that if you conceive a case where Germany has won in this battle of force, this violence, surely the United States will have to remain pretty heavily armed for many years to come. It will cost us enormously in armaments; there is no hope of talking disarmament for the present, that is why our whole idea here is to do something that will help to prevent a war.

If I have reiterated that somewhat tediously, gentlemen, it is only because that is the key of our proposal. Take a stand now that we do not deal with treaty breakers. You do not know what might happen. Things are moving fast in Europe, and it may be that Hitler will be defiant, but we have got a breathing spell, we have got about 10 days. Take a stand now and say "Treaty breakers, no trade with you." That might be just enough to tell Germany what she needs to know, but do it on a principle.

Mr. FISH. Has Germany broken any law with us?

Dr. FENWICK. Yes.

Mr. FISH. What treaty is that?

Dr. FENWICK. The Kellogg-Briand Treaty.

Mr. FISH. I understood that there was absolutely nothing in that treaty that was of a compulsory nature.

Dr. FENWICK. I would be glad to discuss that with you. It is a technical point, but I would be glad to discuss it with you.

Mr. FISH. We will go right ahead. I do not want to interrupt the argument.

Mr. BLOOM. I think that that is very important.

Dr. FENWICK. I happen to have here the text of the treaty. It happens to be in a volume on international law that I published some time ago.

First of all, the contracting parties condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy. If that first article could stand alone obviously it would be very strong. But it unfortunately doesn't stand alone. With it is the Kellogg letter, in which Secretary Kellogg

explained for the benefit of the Senate who would not otherwise have ratified the treaty, you remember, that this statement did not include wars of self-defense.

The Senate was afraid in signing this up they might be denied the right to go to war in self-defense, and so Secretary Kellogg's letter explains that the treaty does not cover that and that wars of self-defense are exempt; and he says further that each nation is the judge of what constitutes a war of self-defense.

This morning Senator Johnson pressed that point rather hard, as if it did not reduce the whole Kellogg Pact to a nullity, and my answer was that I could not believe that the Senate of the United States would ratify a treaty which was inherently ridiculous, which had no obligations whatever in it.

But further than that, I would like to take the actual words used. Secretary Kellogg does not say that the judgment of each State—that its wars are wars of self-defense is final. He says, "If its case is a just one, if its decision that its war is a war of self-defense is correct, then we yield; and if its decision is not correct, it is clearly implied then we do not have to accept it."

Let us put it this way: The Senate was worried if under the Kellogg Pact, renouncing war as an instrument of national policy, we might have a fleet coming to invade us, or an army coming, and now surely we do not have to consult 55 or 60 States to see whether we can go to war in national defense. Obviously not, the initial right to say this is self-defense and we are resisting it with the United States.

But that does not mean that if a country deliberately goes to war and commits an act of aggression, goes to war as an instrument of national policy, the rest of the world has to accept its decision. That does not mean that if Japan goes to war in alleged self-defense now in China, we have to sit back and say, "Oh, yes, this is self-defense, and you have the right to say that your act is an act of self-defense." Very far from it.

Secretary Kellogg's letter expressly points out, that while the state that goes to war in alleged self-defense has the initial right to do it, others may pass upon its act and decide whether it is an act of self-defense.

MR. FISH. Was the Boer War a war of self-defense?

DR. FENWICK. I would be glad if you could keep to events after the Kellogg Pact.

MR. FISH. I was talking of things in our lifetime.

MR. JOHNSON. The Kellogg Pact was not enacted then.

DR. FENWICK. The problem of where we would be on self-defense against the Indians would raise a great problem.

MR. BLOOM. Shall we take Secretary Kellogg's letter as binding upon the pact?

DR. FENWICK. Yes, sir. The reason is that that covering letter was written before the signing of the pact, and it was definitely understood that the pact was to be interpreted in the light of that letter.

MR. BLOOM. That was before the signing of the pact, was it?

DR. FENWICK. Before the signing; yes, sir.

MR. BLOOM. How could that apply or be taken or read into the pact itself?

**Dr. FENWICK.** Because when the pact was signed and ratified by the United States Senate, it was ratified with the understanding that that was what the pact meant, as set forth in Secretary Kellogg's letter, which went to all of the signatories and was accepted by them.

**Mr. BLOOM.** The letter went to all of the signatories?

**Mr. FORD.** Do you know what qualifications the English put on it?

**Dr. FENWICK.** It went to the signatories. The English ran in their own reservations, but for our present purposes it is the letter of the Secretary that is the thing that is at issue.

Now, may I come back to your question, sir? I think, then, a fair and correct interpretation of the first article of the Kellogg Pact does not give such a wide sweep of self-defense as to mean it is impossible for the United States to condemn Japan's action in China on that basis, even if we did not have the Nine Power Treaty, which is far more explicit.

Let us look at the second article, which is far more definite:

The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature, or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

Will anyone doubt that Japan has not sought the solution of her controversy with China by pacific means? Surely the second article will cover an act, a lawless act, if not the first.

Let us take the case of Germany and Poland. Germany starts to invade Poland today, a State with which Germany by the way has signed treaties, and only recently signed a treaty with Poland not to do the thing, but that is not a treaty with us. Here is the Kellogg Pact, and we are thinking of a treaty between Poland and us, and Germany invades Poland, and will anyone say that that isn't a violation of article 2; surely they are not seeking the settlement of the controversy with Poland by pacific means?

**Mr. FISKE.** Are you not a little bit late in advocating this, that we take this action? Should we not have taken the action when Ethiopia was invaded, or did we taken any action?

**Dr. FENWICK.** We took no action except to pass the first of our modern neutrality laws, which simply prevented the shipment of arms and ammunition to either party, but let all other materials go. The result was that Italy got everything that she wanted, and by geographical location and relatively weak power Ethiopia got nothing.

You may remember that there was question whether at that time the League, which still had some authority, would put oil sanctions on Italy, which everyone knew would be effective, and the United States refused definitely to state that we would restrain our shipments of oil, and in the face of that refusal, by the United States, and for other reasons, the sanctions were not put against Italy. Our neutrality legislation did not cover that, you see.

**Mr. FORD.** The President tried to put them on, but Congress refused to put them in the subsequent act of 1936.

**Dr. FENWICK.** I mean at the time of the Ethiopian difficulty, it was proposed that the United States should pass a special act restricting oil to enable the League boycott to be effective, but we were unwilling to do it, and then most of them threw up their hands.

Mr. FORD. We had no assurance that the League would do that; there was an inference that the Anglo-Persian Oil Co. would be leasing the oil to them.

Dr. FENWICK. We could at least have said, "If you do it."

Mr. FORD. Having past experience, we knew that they would not do anything.

Dr. FENWICK. That is what I meant when I said that there were other things involved.

Mr. FORD. Isn't it a fact that the first application of the Kellogg Pact was in the Sino-Japanese trouble, when an effort was made to apply the pact to the Russians, and we received a lesson in courtesy, and they said to us, "Why should you apply this to us, you have not even recognized us," and we were taught to be courteous there.

I think that the hearings proved that we never tried to use the Kellogg Pact, and I do not think that any Senator that ever voted on that thought there would ever be any penalties for it other than a self-denying ordinance.

It is a foolish thing, and not that I want to say the Senate would do a foolish thing, but the king can do no wrong and neither can the Senate, but the reason why they do these things is quite obvious now, that many of them never thought, or I do not think that the majority of them thought, there would be a penalty in that.

Mr. FISH. Is it not an absolutely positive fact—a fact anyway, positive or not—that the Kellogg Pact would never have gone through if any penalties had been implied, and was it not discussed for hours, that very issue, and it was definitely understood that it did not carry any penalties of any kind or description? Did not Mr. Kellogg say so himself, and was not that what it was meant to do?

Now you come here and want to put in a penalty. The only way a penalty can go into it is to have the Senate amend it and pass it around.

Dr. FENWICK. When solemn treaties—in this case we have the Nine Power Treaty as well as the Kellogg Pact—when they are broken you are privileged to take some action.

We are not asking you to go to war on a treaty violator, we are only asking you to discontinue trade with the State which has broken the most solemn of all treaties. Is that a very grave penalty now?

Mr. FISH. It is just changing the entire purpose of the pact that they entered into.

Mr. BLOOM. Is that not the trouble with the pact, that it has no teeth in it at all?

Mr. FISH. It would not have gone through if it had had, and you are putting actual teeth in it and changing the whole pact without the consent of the Senate or the signatories, and we are putting an entirely different interpretation on it now.

Dr. FENWICK. May I ask you just on that point, if Congress today should pass just such a resolution as the Geyer resolution, as the one we are advocating, would not that have the effect of an amendment?

Mr. FISH. Not to that. That is an act of the Congress, you know, Professor, and you cannot amend something that has already been ratified years before, by an act of Congress, and you cannot change something that you have already done. The only people who can do that are those signatories. We cannot put any new reservation into that by ourselves, without the consent of the 58 nations.



Dr. FENWICK. We are not asking for any reservation or any amendment in the treaty in form. We are only asking the United States to do what it has the full power to do, protect its own rights, and I am sure that you would be the last one to say that if our national rights are gravely violated, that we cannot do something about it, simply because we will first of all have to get 60 signatories of the Kellogg Pact together and ask their consent.

Mr. FISH. But it has no right to base it on the Kellogg Pact, which carried no compulsion at all, and you are reading in and interpreting something in the Kellogg Pact that does not exist, unless you want to amend it by unanimous consent of all of those nations.

Dr. FENWICK. May I ask you this question to clarify it? Do you agree that the Kellogg Pact can be broken? Do you agree that there is enough legal validity to it that it could be broken?

Mr. FISH. I know that you can ignore it, or it can be broken, but you have nothing at all; you cannot interpret any power to punish any nation because it is broken.

Dr. FENWICK. Let me put it a little clearer. Would you say that any country could break the Kellogg Pact with respect to the United States?

Mr. FISH. I suppose that there might be contingencies.

Dr. FENWICK. If you agreed to that, do you see any reason in the treaty why we should not, in the presence of such a breach of treaty obligations, refuse to deal with them?

Mr. FISH. Very definitely. Because if you read the debate that goes along with that treaty there you will find that that vote of the Senate was based entirely on the supposition that there would be no compulsion of any kind—no force, no penalties—to make these people carry out what is in that compact.

Dr. FENWICK. Well, may I ask you this question?

Mr. FISH. It is a little different between a treaty between 2 nations and 60 nations, too, and this is a compact between 60 nations, and it was based on just a general assumption that everybody wants to be good.

Dr. FENWICK. Well, do you see any reason today why if we felt that a country had done us any wrong, very grave wrong, but not a violation of the Kellogg Pact, but a wrong under general international law, which we have always asserted existed, that we could not by way of, if you like the word, retaliation refuse to deal with that country?

Mr. FISH. Yes; but we do not have to go to the Kellogg Pact for that. If we want to pass a law of retaliation against any nation for whatever offense we want to call it, we have the power to do so; but I do not think that we have the right to pick on the Kellogg Pact, which has no compulsory features, and say we are going to use that as a vehicle. We do not need any vehicle if you want to do that.

Dr. FENWICK. Well, then, would you be willing now, if this Geyer resolution said, "Whenever the President shall find that one or more states signatory to a treaty has engaged in war in violation of that treaty, or is engaged in war in violation of the general rights of international law, the general rules of international law, the United States should be privileged to do that"? Would you accept that addition, so that if a country has violated the general rules of international law we are free to stop dealing with them?

Mr. FISH. If you ask me, of course, I think that I would say that I am absolutely opposed to it; I would say that we have that power

already, and any time that you want to stop dealing with any other nation, we can do so. We do not need to go out and take the general rules to be guided by it.

Dr. FENWICK. Well, may I speak to that just a moment? That is really the key of our whole problem. This group that I represent feels that it would be a great help in preventing war, which we believe is the best way for us to keep out of war, if possible; it would be a great help to prevent war if we took a stand on the principle that nations which violate our rights—let us put it in a broad way—violate our rights, we will not deal with them.

The reason that we chose "treaty breaker" is because we felt that there was this international obligation under the Kellogg Pact. We are quite ready to broaden it, if need be, and add in another clause to get your support, because we want to prevent a war from coming, and we think that the best preventive of war is to tell the world that when nations violate our rights, we are privileged not to trade with them and we will not do it.

Mr. BLOOM. Have we not that right now, without this act?

Dr. FENWICK. Yes, sir.

Mr. BLOOM. Then why do that?

Mr. FISIL. That is the reason I am against it.

Dr. FENWICK. That is simply, because we want you to discontinue trade, and we would rather you do it on a principle—this is perhaps coming now to the point, and I am very glad that you brought it up. We would rather, instead of having specific action taken against Japan, or if war should break out in Europe, taken against Germany, conceivably, we would rather put it on the basis of a principle, because we think that that has preventive character.

If you wait until a war breaks out, then it is too late to have any preventive character, and you can then do your best to keep out of it, or to do what you think is right, but we want now to try and tell the world that treaty obligations mean something to the United States.

No; if you can tell the world that, in any way, we will be pleased.

Mr. FISIL. Let us assume that Germany withdraws from the Kellogg Pact, which I presume she has the right to do.

Dr. FENWICK. There is no provision made for that, and I do not see—

Mr. FISIL. All the Kellogg Pact becomes a dead letter. What rights has Germany interfered with to make it compulsory upon us not to trade with them?

Dr. FENWICK. It is not compulsory upon us, sir.

Mr. FISIL. That is what you want to write into the law. Suppose that the Kellogg Pact did not exist; suppose that we write that into law, what right, or what rights has Germany interfered with us to us, that would make her a treaty breaker if the Kellogg Pact did not exist?

Dr. FENWICK. That is a very good point, and I would like to say just a word to it. I believe, and many other international lawyers believe, that in the course of the past 20 years there has been built up an international common law which makes recourse to war unlawful, irrespective, apart from the Kellogg treaty, over and above the Kellogg treaty. We believe that a common law has been built up by

a whole series of bilateral treaties. The United States has a wide range of them with Latin America, as for example, the treaty of 1933 with Argentina, the antiwar pact.

Those antiwar pacts have been built up in large number. I hesitate to say how large a number. Professor Hudson's collection, which the gentleman from Connecticut knows, give us four or five volumes, and many of those treaties are antiwar treaties. In other words, an international common law has developed, we believe, which makes recourse to war except in genuine self-defense, which is out of the question here, unlawful, so that recourse to war which disturbs our trade, even though we are not in the war, which creates havoc in the financial world, is a wrong done to us, even above and apart from the Kellogg Treaty.

MR. FISK. I think that is rather idealistic. Being a great hater of war, I would like to believe that, but sometimes we may reach that era.

DR. FENWICK. That is the view of it.

MR. FISK. May I ask you just one more question, because——

MR. BLOOM. May the Chair just make a statement?

I would like to say that we are going into executive session, and if Dr. Fenwick would kindly come back again, we would continue this talk.

MR. FISK. May I ask him one question, and I was out, and I am sorry that I did not hear all you said, but I rather imagine from what you said, that you have one main point, and that is, would you like this country to determine the aggressor nation?

DR. FENWICK. I would like the United States to stop trade with treaty-breaking nations. If you want to use that word "aggressor," well and good; that word seems to be objectionable, because it is not capable of a very clear definition. Many definitions have been offered. I think that it could be defined, but in the absence of an agreed definition on "aggressor" we have chosen the words "treaty breaker."

MR. FISK. What I am trying to get at, you are trying to make them synonymous as far as you can, the treaty breaker and the aggressor, and you want, in the determination of an aggressor nation to give that to the President to determine, or Congress and the President?

DR. FENWICK. Yes; first the President, in the course of his usual executive functions, to decide that a treaty has been broken, and then he comes before Congress and tells them of his decision, and asks their approval to exempt the innocent party, in whole or in part, according to their judgment.

You have full control at all times.

MR. BLOOM. What do the last four lines mean here?

DR. FENWICK. That is, properly interpreted, as we read it, it means that the President having exempted——

MR. BLOOM. Let me read it to the committee and see what they think [reading]:

The President may from time to time change, modify, or revoke, in whole or in part, any exemption issued by him under the authority of this section.

DR. FENWICK. Our interpretation of that is a legal matter, and it is just a matter of legal phraseology, that it refers only to the State which has been exempted, so that for example, in a war between Japan and China, China has been exempted, as found innocent, and

suppose now that, conceivably, China continues the war even after Japan is trying to get out of it, if you can imagine that, the United States would say China is no longer innocent, she is having recourse to war as an instrument of national policy. "I will revoke any exemption in favor of China; I will put her as completely under the original embargo as Japan was."

Mr. BLOOM. This does not say that.

Dr. FENWICK. If it does not say that it ought to be changed.

Mr. BLOOM:

The President may from time to time change, modify, or revoke, in whole or in part, any exemption issued by him under the authority of this section.

Dr. FENWICK. It obviously refers only to the State exempted.

Mr. BLOOM. Any further questions?

Mr. FISH. I would like to ask one very vital question.

What would have happened in case we had this law that you wanted on the statute, in the case of the invasion of Albania? We would have stopped dealing entirely with Italy?

Dr. FENWICK. In the case of the invasion of Albania, the President would come before Congress and say, "Gentlemen, Italy has resorted to war, in violation of a treaty," assuming that, although the Albanians put up no fight, and a fake government was created, and we all know the story, and he comes before Congress and asks Congress' approval, and I take it you gentlemen would be just as vocal then as at any other time, and you will say—I did not mean to be discourteous—you will simply say to the President, "Why, nonsense, we are not going to have anything to do with this; Albania seems to prefer Italian occupation, and it was only King Zog that did not want them there, and the rest did, and we do not propose to say anything in the matter. It is up to you."

Mr. FISH. Is it not a question that if it is a small question involved, it is not so important, but if it is a big country——

Dr. FENWICK. We will leave that to you.

Mr. BLOOM. Are there further questions? (No response.)

Thank you very much, Mr. Fenwick. You have been very kind to come here and give us the information the committee is seeking, and we hope to have the pleasure of your company again.

(Whereupon the committee at 4:30 o'clock went into executive session.)

# AMERICAN NEUTRALITY POLICY

TUESDAY, APRIL 18, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order for the further consideration of bills to amend the Neutrality Act.

Members of the committee, we have the honor and privilege of having as a witness today Mr. William Potter Lage, who is coauthor with Dr. Edwin Borchard of the book *Neutrality for the United States*. Mr. Lage has a statement which he will read and at the conclusion he will be very happy to answer any questions.

## STATEMENT OF WILLIAM POTTER LAGE, NEW YORK, N. Y.

Mr. LAGE. The honor which your distinguished chairman bestowed in inviting me to express my views to this committee on the subject of neutrality weighs somewhat heavily upon me. Wars and threats of wars, particularly in Europe, have focused attention everywhere upon American foreign policy. Our people have expressed the desire for peace and have entrusted Congress with the task of determining how best that objective can be obtained. And Congress has responded; today it has under consideration numerous proposals, all designed, in one manner or another, to promote peace for the United States.

Most of these proposals advocate either repeal or amendment of the present Neutrality Act. It has also been suggested that the provisions of the present act which are about to expire be merely extended. My own views, however, are that Congress should take no action at this time. I believe that the only change in the present act which is desirable is the one which will take place automatically on May 1 next, and that any other amendments are inadvisable.

During recent years Congress considered the problems of neutrality from all angles and finally devised the present Neutrality Act. There is no necessity of tracing that history or of detailing the provisions of the act to this committee; it is sufficient to point out that recent discussion has been precipitated by two factors: Expiration of the cash-and-carry provisions of the present act on May 1, and recent disturbed conditions in Europe.

Contrary to the atmosphere prevailing on previous occasions when this subject was deliberated, there is today a new tension in the air. The stakes in the present round of the European game of power poli-

tics have been doubled and quadrupled. But that alone does not account for the difference; that merely intensifies a feeling which has always been present. This new tension comes from other sources. It comes from a progression of official statements and maneuvers which have set the whole country on edge. It is now apparent that another struggle is impending between the advocates of sanctions and the advocates of nonintervention.

Once before this very issue was up for decision. That was almost 20 years ago. At that time, the answer was unmistakable. Fresh from the bitter experiences of the war, and somewhat disillusioned at its results, this Nation decided to abstain from membership in the League of Nations. That decision was motivated largely by the provision in the League covenant for the application of sanctions against aggressors. Congress and the people at that time preferred the traditional American policy, the policy of neutrality.

At various times since then attempts were made to revive that issue, but they met with little success. Today, however, the problem has once more been cast into the lap of Congress. Bills have been introduced during the present session looking toward a reversal of that 1919 decision. And the American people are troubled lest the answer today be less certain than before.

Twenty years ago Congress refused to authorize American participation in the application of sanctions against a country adjudged the aggressor by joint international agreement. It was then thought that to entrust such power to the Executive would be incompatible with our principles of government; in effect, Congress would have been delegating its control over the power to declare war. Today, Congress is being requested not only to reconsider that earlier decision but even to grant a greater power, for today there is no stipulation that selection of the so-called aggressor would be based on general international agreement. Congress is now being asked to empower one man to apply sanctions against any nation currently in disfavor, provided only that a majority in Congress assent thereto.

Now, this proposes the very antithesis of neutrality. It proposes that in every foreign war, the United States shall actively intervene with economic weapons on the side of a favored contestant. But intervention could not end there, for should economic pressure fail, America would of necessity again have to send troops to a foreign battlefield. Thus, the peace and even the safety of this country would be recurrently placed in jeopardy with the outbreak of hostilities in distant lands. This, I believe, is not the desire of either Congress or the country. Repeatedly in the past, our people have reaffirmed their desire for adherence to the counsels of Washington, to a policy of nonintervention and neutrality.

But there has not been complete harmony with respect to the methods by which such neutrality was to be achieved. On one side have been ranged the advocates of collective security, with its corollary of quarantine and punishment; these favored granting to the Executive discretion to discriminate between a so-called aggressor and his victim. Opposed, were those favoring a policy of isolation grounded upon mandatory directions for the guidance of the Executive. Both groups united, however, in demanding enactment of some legislation; the one because it desired to place in the hands of the Executive power to discriminate, the other because it wished to curb Executive discretion in this respect. And midway between

these two schools stood those who thought that no legislation was either necessary or desirable in order to maintain a status of neutrality under international law—provided, of course, that the administration really desired to preserve American neutrality. The resultant Neutrality Act was a compromise. It reflected to some extent the desires of each group.

Today, there is practically the same division of opinion. Although intermediate groups have now joined the fray, the two extremes remain as before. Midway again are those who favor reliance upon international law, now augmented in numbers, somewhat surprisingly, by some of the former advocates of discriminatory embargoes. The present act and the principal new proposal under consideration—the joint resolution introduced by Senator Pittman and Representative Hennings as the Peace Act of 1939<sup>1</sup>—are ranged on either side of this middle position, the former having affinity for the isolationist view.

Before discussing specific provisions of the pending proposals, however, it is advisable to attempt a restatement of just what neutrality legislation is supposed to, or can, accomplish.

Such legislation has been derided as an attempt to guarantee that the United States will never again become involved in foreign wars. Obviously, the task of demolishing such a straw man is easy. The act provides restraints on various liberties of American citizens; it also seeks to curb, in some degree, the exercise of Executive discretion to carry this country into a situation which would require of Congress a declaration of war. But these restraints are applicable only in the event that the United States desires to remain neutral. Nowhere is there any curb upon congressional ability to pass a superseding declaration of war. In other words, the Neutrality Act in no way prevents the United States from intervening in any conflicts, European, Asiatic, or African, or join or initiate which may suit American convenience and supposed best interests. It is merely an attempt to mitigate the friction which naturally arises during foreign warfare by placing restriction on some individual liberties in the interests of the general welfare, while, at the same time, not making those restrictions so onerous that they would react disastrously open or domestic economy.

Naturally, no one can envisage all possible sources of irritation which might arise between neutrals and belligerents. But that would seem to afford but little support for the view that, therefore, we should have no neutrality legislation. The history of 1914 to 1917 should not be lightly dismissed; legislation based upon an understanding of the difficulties of that period and designed to obviate repetition of some of its errors is not only unobjectionable, but highly desirable, particularly when European conditions today seem to foreshadow practically the same alinement of contending forces as in 1914.

This raises another point. It is sometimes urged that application of the Neutrality Act to foreign wars will result in the United States being unneutral. It is contended that, to be neutral under international law, the United States should undertake to equalize the various geographical and economic advantages of one belligerent by aiding his enemy. Thus, it was suggested that the United States

<sup>1</sup> See p. 632.

should have undertaken to supply Ethiopia with munitions and other materials and to deny them to Italy since the latter already possessed adequate supplies. The same argument was also advanced with respect to the Spanish Civil War; by refusing to sell munitions to either side we were supposedly unneutral since the Nationalists could obtain adequate supplies elsewhere whereas the Madrid forces, according to reports, could not.

No more pernicious argument could be devised to mislead our people. Neutrality is not concerned with any such attempts to equalize relative natural advantages possessed by belligerents; if it were, wars would never end. The basic principles of neutrality require abstention from participation in the conflict and impartial treatment of both belligerents. And impartiality means that no discrimination may be practiced against one party in favor of the other; never has it meant that the neutral should actively seek to prolong the war or to affect its outcome by bolstering the supposedly weaker side.

As long as domestic neutrality legislation, both by its terms and in its application by our officials, does not do violence to the rules governing neutrality under international law, no charge can be made that this country is unneutral. This is almost self-evident if the legislation has been enacted prior to the outbreak of war, for then all who subsequently take up arms are already on notice as to this country's position. Furthermore, no charge of unneutrality would lie even if that domestic legislation were altered during the existence of a war provided—and this is essential—that such alteration be effected for the sole purpose of further safeguarding American neutrality and not for the purpose of influencing the outcome of the war.

According to reports, however, certain proposals have been introduced in order to allow America to assist the so-called democracies of Europe during the next general European war. This is to be accomplished by removing the prohibition against traffic in arms, ammunition, and implements of war. As confirmation, recent press dispatches carried the report that a companion proposal would call for enactment of a special embargo against Japan. In other words, the original suggestion appears to be aimed solely at assisting one particular group of prospective belligerents in Europe; it is not designed as a statute to be applied generally to wars in other localities.

At the outset, therefore, Congress is confronted with a serious question of policy; is it the desire of Congress to enact special statutes for every war, present and prospective, in order to assist one participant in the conflict and to prejudice the other? Is each new war that breaks out anywhere in the world to bring new legislation? If that be the purpose of Congress, then, it is submitted, it were far better that the present act be repealed in its entirety and that no substitute be enacted. There would seem to be little point in passing recurrent laws which, by their very frequency and divergent provisions, flout that impartiality which is the very basis of neutrality under international law.

#### ARMS EMBARGO

Assuming, therefore, that it is the present purpose of Congress to regulate the activities of American citizens during foreign wars generally, it is then in order to consider the specific suggestions contained in the amendment proposed by Senator Pittman and Representative



Hennings. In substance, these suggestions may be boiled down to two principal items, for the balance of the joint resolution is very similar to the provisions of the act now in force.

The first of these items is the suggestion that the present absolute prohibition on the export of arms, ammunition, and implements of war to belligerents be repealed and that the so-called cash-and-carry provisions of the present act be applied to such lethal weapons. I do not favor this change.

The real problem here is again one of policy: Does the United States desire to supply foreign belligerents with munitions, under certain conditions, or does it desire, on the other hand, to continue the statutory prohibition against the trade? I shall review some of the principal considerations involved.

It might be urged that absolute prohibition of such exports would work untold hardship on nations which depend upon foreign sources of supply for weapons of self-defense. Retention of the present prohibition might also react unfavorably upon our domestic manufacturers of munitions because they would be denied the right to participate in the boom in such trade which is frequently attendant upon the outbreak of foreign warfare. Furthermore, if this Nation should decide to join in such foreign war, our armies would be at a disadvantage because the munition plants would not already be geared up to a point of maximum efficiency through supplying one or both belligerents.

The last of these arguments does not appear to be persuasive; Congress has repeatedly and very recently reaffirmed its willingness to appropriate the funds necessary to keep our peacetime industries in a position to meet the wartime needs of our fighting forces if called upon to defend American vital interests, and has ratified, at least tacitly, the declared purpose of the War Department to set up reserves of material ample for the efficient functioning of our Military Establishments. The argument addressed to the unfortunate plight of the munition makers does not appear to be one to excite public sympathy; recent revelations, both official and otherwise, cast considerable doubt on their need for pampering. And with respect to the plea that retention of the embargo would prejudice the position of small nonmanufacturing nations in defending themselves, this ignores the very ready answer that there will always be sources of supply available elsewhere.

On the other hand, retention of the embargo might have beneficial effects upon this country's ability to restrict belligerent contraband lists. The international law of contraband has, it is true, been severely strained in the past. Belligerents have, sometimes with the acquiescence of the United States, unduly expanded their lists to include a great variety of general commodities. Suggestions for rectifying this situation, such as certification of cargoes prior to departure, have not yet met with international agreement. It is open to question, therefore, whether a strong naval power would voluntarily enter into any undertaking whereby the effectiveness of its navy might be impaired.

MR. BLOOM. You said "international law." Do you mean international law with regard to contraband?

MR. LAGE. International law with respect to contraband; yes, sir.

MR. BLOOM. During time of hostilities?

MR. LAGE. During time of hostilities; oh, yes.

MR. JOHNSON. Isn't it true that so far as contraband is concerned, judging by the wars of the past, that the belligerent nations, if they are

powerful enough, have no regard for international law, and they simply make the list of contraband as large as their needs require; and there is no way of resisting that except by force, if they enlarge and expand beyond what should be contraband. Other nations would have the foreign policy of the United States at their mercy if they passed a list of contraband?

Mr. LAGE. Not unless we agree.

Mr. JOHNSON. What would be the remedy? Suppose Great Britain or any other major country make a list of what it says shall be contraband, and we say that international law does not justify some of those articles being branded as contraband and they say it does. At any rate they are going to insist that be contraband. What is our remedy?

Mr. LAGE. There are various remedies short of war.

Mr. JOHNSON. We were unable to enforce any remedy in the last war, the World War?

Mr. LAGE. We really did not care to, I believe.

Mr. JOHNSON. Oh, yes. We tried. We sent note after note; very forceful notes of protest.

Mr. SHANLEY. Isn't it true as early as 1915 we had stated that regardless of all things we were going to ship munitions and because of that statement we precluded ourselves from objecting against the embargo, and isn't it true that during the Spanish-American War the Spaniards attempted to put sulphur on the embargo list and the Italians made such strong protests that they yielded? In other words, if we had been as emphatic as they had been we would have cut down that embargo list. I notice also you said in your book, you said that we disagreed with northern neutrals, that were the same as ourselves, and it cut down our answer to the increase in the British contraband. We could have gotten somewhere with it. In other words, it foreclosed our right and we found we had foreclosed ourselves of the right to use diplomatic channels and going along with the British.

Mr. JOHNSON. What is our remedy? You have not answered the question. He is talking about some foreclosing of our rights. I do not know whether I declare myself in agreement with that. What is our remedy?

Mr. LAGE. Congress passed in 1916 an act which authorized the President to apply an embargo with respect to shipments to Great Britain if Great Britain would not agree to certain modifications of its very stringent rules.

Mr. JOHNSON. In other words, the application of an embargo might be enforced against a belligerent nation contracting not to extend its list of contraband?

Mr. LAGE. I think it might.

Mr. JOHNSON. But if we have this neutrality law and it already creates the embargo there is nothing more we can say. There is no ground on which we can trade with them so far as limiting the list is concerned.

Mr. LAGE. No. The embargo I was referring to just now was an embargo on nonwarlike commodities; if we invoke that only to maintain our position and not to influence the outcome of the war and not to favor one side our neutrality cannot be questioned. If we applied an embargo against shipments of various commodities, general com-

modities, for example, to England, in retaliation for England's illegal acts that would be perfectly justified.

Mr. JOHNSON. Well, perhaps it is justified. But how are we going to enforce it if they refuse? After all, isn't it true that a country with a powerful navy, a navy strong enough can almost impose anything as contraband that their needs require? Isn't that, as a general proposition, true?

Mr. LAGE. Well, there is a tendency in that direction.

Mr. JOHNSON. But——

Mr. LAGE. But they also must have regard for neutrals.

Mr. JOHNSON. Neutral rights are what a belligerent will give them, unless the neutrals might become belligerents.

Mr. LAGE. That is a very important exception. And also general public opinion.

Mr. JOHNSON. That is true. Public opinion is a powerful weapon.

Mr. LAGE. Very.

Mr. BLOOM. You will proceed, then.

Mr. LAGE. But an undertaking by the United States to prohibit the export of lethal weapons might go far toward enabling the administration to persuade belligerents to restrict themselves to a reasonable contraband list.

More important, however, is the probability that repeal of the embargo at this time for the avowed purpose of assisting particular groups will almost certainly have the effect of hastening war in Europe. By implanting the belief in certain favored nations that they will be assured of one-sided American supplies of war materials, this country would be encouraging them to reject methods of change short of actual war. And at times changes are necessary. As has recently proved to be the case, rejection of methods of peaceful change may very likely precipitate war; those who consider change essential eventually lose patience with those who rely upon assurance of outside support in refusing to discuss needed settlements. That is one of the basic reasons why collapse of the League of Nations was inevitable after the emasculation of article XIX. That is also one of the principal reasons why both Ethiopia and Czechoslovakia have today vanished completely as independent nations: They were encouraged by external assurances of support to assume attitudes of intransigent opposition to readjustment. China appears to be in a somewhat similar situation.

However much we as individuals may deplore the means by which these changes were eventually put through, we should not let emotion blind us to the facts nor to the lessons to be learned from them. Encouraging foreign nations to reject summarily all consideration of peaceful change is comparable to telling them to clamp down the safety valve of a boiler under which a fire is raging. Sooner or later an explosion is bound to occur and someone will be hurt. For any American, however well intentioned, to foster the belief among foreign nations that we will automatically support them when their refusal to discuss readjustments results in a blow-up is not merely misguided, it is diabolical, for it may well prove suicidal for those who rely on such assurances if support is not forthcoming at the crucial moment. And if that support is again provided, America

can rest assured that it will not be long before it will have to maintain permanent standing armies in both Europe and Asia. That is not a pleasant thought. But then, neither is it pleasant to see America being cast for the role of international busybody. The concern of America is primarily with the welfare of this country, and only very remotely, if at all, with the preservation of any particular status quo elsewhere.

Other factors also seem to militate against repeal of the embargo. First of all, there is the domestic repugnance to traffic in munitions, a repugnance which, even if unjustified, has been aroused by recent unofficial studies and by the revelations of the Senate committee appointed to investigate and report on the munitions traffic. Not long ago the administration itself inveighed against the traffic by dubbing its rewards "blood money." As a result of these disclosures and of an aroused and articulate public opinion, Congress decreed that during foreign wars in which the United States is neutral exports of lethal weapons to either group of belligerents would be prohibited. I am not prepared to state at this time that public antipathy to the traffic has now disappeared or become inarticulate; on the contrary, I am inclined to the belief that large numbers of our people continue to regard much traffic as particularly abhorrent and reprehensible.

Were this alone not enough to influence Congress to retain the embargo, there is still another, and perhaps more compelling reason, why it should be retained at the present time. Under the terms of the present act, and also under international law, the prohibition must be applied impartially when it is applied at all.

Mr. JOHNSON. That is with reference to arms and munitions, you mean?

Mr. LAGE. Yes, sir.

In the light of recent American practices, however, if the embargo provisions were now removed from the Act, or if lethal weapons were put on a cash-and-carry basis, the Administration would be assured of the power to apply discriminatory embargoes—a power which Congress has heretofore resolutely refused to grant, for it entails the power to make war.

Mr. BLOOM. And name the aggressor?

Mr. PAGE. Sir?

Mr. BLOOM. And name the aggressor nation?

Mr. LAGE. Well, that would probably be a concomitant.

A recent case in point is that—

Mr. JOHNSON. Are you going to illustrate now how it is discriminatory?

Mr. LAGE. Yes, sir. A recent case in point is that involving pressure upon aircraft manufacturers to refuse to sell parts to Japan. This was effected under the guise of a thinly veiled threat not only to expose such manufacturers to public obloquy and denunciation, but also to ruin them by refusing them the future Government contracts upon which they depend for existence. It was reported that only one manufacturer dared brave administrative ire, and he was soon brought into line. This episode was possible because the administration has not seen fit to apply the Neutrality Act to the war in the Orient. Congress has likewise apparently been unwilling to

invoke the act. As a result, this country has officially assumed an attitude of definite unneutrality toward the participants in that struggle, an attitude which has been further emphasized by granting a semiofficial loan to China. It is just such unneutrality, I believe, which lays the foundation for American involvement in foreign wars.

Thus, although the rules of international law impose no duty upon a neutral government to prohibit trade in munitions, for a variety of reasons it would probably be desirable to retain at this time the prohibition against the export of lethal weapons. Conversely, it would appear to be definitely undesirable from the point of view of both American neutrality and general international peace to repeal the embargo solely and specifically for the purpose of assisting one prospective group of European belligerents, and then to refuse to apply that same treatment to the present belligerents in the Orient.

#### CASH AND CARRY

The second major feature of the Pittman-Hennings proposal is that all trade will belligerents shall be placed on a cash-and-carry basis. This proposal differs slightly from the provisions of the present act whereby the President is given discretion to select commodities to which the cash-and-carry feature would apply. While this change reflects the desire of many people to curb Administrative discretion, I believe that the entire cash-and-carry section of the present act, which by its terms expires within 2 weeks, should be allowed to die a natural death.

Most of the feeling in favor of cash and carry seems to be based upon the assumption that it was belligerent interference with our commerce which forced America to become a participant in the war in 1917. It cannot be denied that, by 1917, trade with one group of belligerents had become firmly rooted in the then inflated economy of the country; any interference with it at that time would probably have reacted unfavorably upon our domestic situation. But, even granting all this, that does not explain how such a one-sided development of trade came about. That is a different question, and a question whose answer is to be found, I believe, in the history of earlier administrative departures into unneutrality. Trade, or interference therewith, was not what prompted the administration of that time to adopt policies in 1914 and the early part of 1915 which practically assured American involvement, provided the conflict lasted long enough. As numerous recent studies have pointed out, it was not until much later that trade with the Allies began to assume gigantic proportions. But long prior to that development the die had been cast. When the administration refused to join the Scandinavian countries in protesting against Great Britain's 1914 declaration of the entire North Sea as an area of war, and yet subsequently denounced in the most vigorous terms the German retaliatory declaration of a blockade around the British Isles; when the administration succumbed to British blandishments with respect to the treatment to be accorded so-called defensively armed merchant ships (which by their very armament had sacrificed all claim to a merchant status) and yet insisted, in a series of strict accountability ultimata, that German submarines conform to ordinary rules

of visit and search at the risk of being rammed or shelled by these defensively armed vessels or by Q boats masquerading as peaceful traders; when the administration undertook to protect British ships against enemy attack on the legally untenable ground that those British ships carried American passengers and muleteers, while at the same time refusing to acknowledge the justice and legality of Secretary Bryan's position that such persons took the risks of their location and should be so warned; when the administration secretly authorized circumvention on behalf of the Allies of Secretary Bryan's prohibition on loans while at the same time strongly discouraging similar transactions with the Central Powers; when the administration, in sum, espoused legal positions which were unneutral as a matter of law it seems ironical to have the trade and commerce which developed along the lines of partiality so charted by the administration now held up to opprobrium. The traders did little more than they were encouraged to do by the rulings of the administration. It is submitted that cash-and-carry legislation could have little effect upon situations such as these.

It is sometimes urged that there is no distinction between supplying a belligerent with lethal weapons and supplying him with other articles of commerce, such as cotton and food. Such a statement should not be accepted lightly. Its proponents completely ignore the distinction which has grown up between these two classes of commodities through practical experience during innumerable wars and is now firmly established in international practice and treaties. Such distinction is not amenable to American legislative fiat. Blandly to cast aside this historical development will not, it is submitted, contribute to the cause of peace anywhere. Furthermore, the Department of State now, as in 1914, has complete discretion with respect to advancing claims of American nationals against foreign countries. Thus the administration already has ample power effectively to discourage any commerce which it believes dangerous to American welfare.

Mr. JOHNSON. I just want to call your attention to this question: At present would you invoke the neutrality law in the Orient?

Mr. LAGE. Yes, sir.

Mr. JOHNSON. You think the American people approve of the President's statement with reference to the invoking of the law in the Orient?

Mr. LAGE. I think there is a great deal of sentiment in favor of his action.

Mr. JOHNSON. The legal ground on which the distinction is made is the right existed not to invoke it in a state of war which was undeclared.

Mr. LAGE. Yes.

Mr. JOHNSON. Of course, I grant you that, so far as actual conditions are concerned, the President would have been justified in invoking it.

Mr. LAGE. The English courts so held.

Mr. JOHNSON. The people, so far as I have been able to ascertain, from the press, witnesses, and everyone else, except yourself, have approved of the President's failure to invoke.

Mr. LAGE. That is because they want to favor one side.

There are a great many people, I believe, who want to favor one side and discriminate.

Mr. JOHNSON. Regardless of what reason they have, they do justify it. Law is the crystallization of sentiment. Isn't that the best definition of law; that it is the crystallization of sentiment; and when sentiment is not back of the law, isn't it questionable whether or not that is a valid law—a law that should remain on the statute books? Sentiment, after all, determines our law, doesn't it?

Mr. JOHNSON. I do not think anybody in the United States wants to involve us in a war in the Orient.

Mr. BLOOM. Or in any other part of the world.

Mr. JOHNSON. Or in any other part of the world. We find no one, I think, who wants that. I know I am opposed to war in any form. What we are trying to do is trying to keep out. That is what this committee earnestly and conscientiously is seeking to do; and because somebody differs with you I do not think it is right, and it does not show a very considerate view, to state that they want war and you do not.

Mr. LAGE. No; I do not mean to imply that.

Mr. JOHNSON. That is the inference I got.

Mr. LAGE. What I meant to point out was this: That most of the people of this country have decided, and I think Congress has reflected, and this committee reflects that desire to keep out of war, and I feel very confident—

Mr. JOHNSON. That is the whole purpose of this hearing.

Mr. LAGE. I feel very confident that it is only by maintaining neutrality that we will not run the very serious risk of involving ourselves.

Mr. RICHARDS. Mr. Lage, we all agree, it seems, we all believe we should stay out of war. The thing that bothers me and bothers a great many people is how far we can go toward embargoes, sanctions, selecting the aggressor nations, and all that. Lots of people think we can go that far, but they do not want to get in a war. I think that is the crux of the whole situation. What do you think of that?

Mr. LAGE. I do not believe that picking the aggressors and making faces and calling names will make for peace. That is just one sure first step down the road to getting this country into war because every nation resents such conduct and will retaliate. Tension is thereby increased, public sentiment is aroused, and finally the people will demand some action. That is my personal feeling.

Mr. RICHARDS. In other words, granted they do not want to go to war now, but you believe if we take certain steps along the lines suggested they could readily want to go in a war in a few months?

Mr. LAGE. I have great faith in the force of public opinion. By molding public opinion by means of the press, the radio, and other instrumentalities today, I think the people could be aroused very readily.

Mr. BLOOM. Both ways.

Mr. LAGE. Both ways, sir.

Mr. BLOOM. In other words, you believe it is not the length of the step you take, but the step in the right direction that counts?

Mr. LAGE. Absolutely, sir.

Mrs. ROGERS. Don't you think there is an enormous amount of propaganda going on in the country today—group against group?

Mr. LAGE. I hesitate to answer that because so many people have difficulty in defining propaganda.

Mr. BLOOM. You have not been a Congressman, then.

Mr. LAGE. There is a great tendency to call everything with which you disagree propaganda.

Mr. JOHNSON. If it is on your side it is public sentiment and if it is against you it is propaganda?

Mr. LAGE. That's right.

Mrs. ROGERS. And doesn't everybody think that since the Kellogg Pact, countries do not declare war any more but they just fight?

Mr. LAGE. Well, that seems to be a concomitant of the Kellogg Pact. It seems to have developed in that way. I have no particular faith in the Kellogg Pact because of the very extensive exceptions included in the explanations under which it was negotiated.

Mrs. ROGERS. We think it was a nice gesture but it does not help.

Mr. LAGE. Exactly.

Mr. SHANLEY. Would you say the danger of propaganda is that there is a monopoly of propaganda? That is what I am beginning to worry about.

Mr. LAGE. I would rather put it this way, that there seems to be more or less unanimity along certain lines among the disseminators of information.

Mr. SHANLEY. Another question I would like to ask: The difficulty of picking the aggressor is probably best evidenced by the recent Lima Conference where they were not only unable to pick out a definition of "aggressor" but also they were unable to come to some agreement on sanctions, and they were supposedly friendly nations.

Mr. LAGE. Exactly.

Mr. SHANLEY. As you remember also one man devised his definition of aggression as when you have troops on foreign soil in violation of a treaty; that is aggression. And as I understand it also there is really no acceptance of that throughout the world by international experts.

Mr. LAGE. I think that is a little too easy a way out. There are various times, for example, when we have sent troops on punitive expeditions into Mexico and other countries, and I would not be prepared to say off-hand that we were the aggressor.

Mr. KEE. I understood the gentleman was to be permitted to complete his statement and there would be a discussion of it after he gets it completed.

Mr. BLOOM. It is so ordered.

Mr. LAGE. (continuing) Thus the administration already has ample power effectively to discourage any commerce which it believes dangerous to American welfare.

Mr. VORYS. How do you mean that? You say the "administration now"; you mean under existing neutrality legislation?

Mr. LAGE. No, sir. Under the general principles with respect to advancing claims of American nationals against foreign countries for interference with any trade. Did I answer your question, sir?

Mr. VORYS. No. You said, "Now," and of course we now have a neutrality law. I assumed from your context that you mean the administration without any neutrality law at all has the power to control—

Mr. LAGE. To discourage trade.

Mr. VORYS. That was not quite what you said.



**Mr. LAGE.** The sentence is: "Thus the administration already has ample power effectively to discourage any commerce which it believes dangerous to American welfare."

**Mr. VORYS.** Effectively to discourage commerce? How?

**Mr. LAGE.** By notifying shippers, exporters, and manufacturers that it will not protect certain trade; that it will not insist upon protecting some particular trade because, in the opinion of the administration, such trade is undesirable. In other words, the administration, without any cash-and-carry resolution, has almost those same powers to discourage undesirable trade and make it at the risk of the carrier or the trader.

**Mr. SHANLEY.** Mr. Chairman, does that mean during the World War if I had gone on a belligerent ship and the Government said to me, "If you are injured, we won't protect you; we won't present your claim to the foreign belligerent that injured you"; in other words, only the Executive can present a claim to a foreign government by saying, "Now, if you go on belligerent ships, we will refuse to present your claim," and that would have eliminated all of the American men lost on belligerent ships?

**Mr. LAGE.** That exactly was Secretary Bryan's position. That was what forced Mr. Bryan out of the Cabinet—that very issue.

**Mr. VORYS.** Don't you think it would force anybody else out of the Cabinet if, without authority of law, they chose to discriminate and say, "We are not going to take your side—under these circumstances we are not going to protect shipping"?

**Mr. LAGE.** No. The point behind Secretary Bryan's ruling was that as a matter of law the United States had no business trying to protect passengers on British vessels, some of which may have been armed, and most of which carried munitions. But those are merely additional factors. It is a fundamental rule of law that the person or passenger on a vessel takes his protection from the flag of that vessel. The United States should not have even advocated trying to protect such people on British vessels.

**Mr. VORYS.** And you say that was a principle of international law that was settled?

**Mr. LAGE.** Yes, sir.

**Mr. VORYS.** In 1917?

**Mr. LAGE.** I think it was settled long before that, sir.

**Mr. CORBETT.** I wonder what the witness' opinion would be just on the fact—not that it is commendable, or the opposite, condemned. Do you believe that the President by the wording of his message has already named the aggressors in the prospective war, already, by means of the powers which you say he has, laid down minor economic sanctions?

**Mr. LAGE.** Well, as I pointed out, in one instance, with respect to the shipment of airplane parts to Japan, there was no ruling, no law under which that was done. That was merely by appealing to the manufacturers.

**Mr. CORBETT.** Well, the point of my question is whether or not the language of the Presidential message calling for a peace conference has not already pointed out Germany and Italy as the aggressor nations, and certain acts have been designed, or at least have had the

effect of being minor sanctions. For example, canceling trade agreements with Czechoslovakia. It is not a question here of right or wrong. It is simply a question of fact.

Mr. LAGE. Well, I would be inclined to agree with you because of this fact, that the message was addressed solely, and rather pointedly, to just two nations under the theory that they are the only two that are threatening the world.

Mr. BLOOM. How do you get that? Addressed to two nations?

Mr. LAGE. To Germany and Italy.

Mr. JOHNSON. Do you question for a moment that they are the ones liable to provoke a war? Do you think any other country is going into some other country or is threatening to invade some other country instead of the two to which it was addressed?

Mr. LAGE. No, sir. But as I tried to indicate, sometimes the refusal to discuss needed readjustments may precipitate war.

Mrs. ROGERS. To Mr. Corbett I would say, the State Department says the trade agreement with Czechoslovakia is not abrogated, it is merely suspended.

Mr. CORBETT. It has had the same effect, has it not?

Mrs. ROGERS. Temporarily it has.

Mr. LAGE (continuing). Perhaps the most objectionable aspects of the cash-and-carry plan, however, are to be found in its effect upon our own commerce. Immediately upon the outbreak of a foreign war perfectly legitimate American carriage of nonwarlike articles would be prohibited; belligerents, however, would be permitted to pay cash and carry in their own ships. American shipping, as a consequence, would be completely disrupted, and the millions of dollars which the Government is currently investing in its development and maintenance would be jeopardized. But that is only a part of the picture. American export trade would be placed at the mercy of that set of belligerents which had the cash and the ability to control the highways of ocean transportation—in other words, Great Britain in the Atlantic and Japan in the Pacific.

Worse yet is the effect which the mere enactment of such a proposal will have upon our commerce as a whole. Nations fearing war would be chary about entering into lasting commercial relationships, even in peacetime, with a country which declares itself so capricious a source of supply. When most needed by them, our markets might be inaccessible because of their inability to transport perfectly legitimate commerce. Far preferable from their point of view would be reliance upon a dependable supplier; and our foreign purchasers would have little difficulty in securing such assurances of dependability elsewhere—again, probably from Great Britain and Japan. In fact, America's most vigorous competitors in the fields of international trade could wish for little better than passage of such a proposal.

Mr. JOHNSON. Where you mention the fact that the cash-and-carry plan as contained in the Pittman bill would inure to the benefit of some countries and to the detriment of others: Wasn't that one of your statements you read, right in the beginning?

Mr. LAGE. Yes.

Mr. JOHNSON. You made a statement.

Mr. LAGE. "American export trade would be placed at the mercy of that set of belligerents which had the cash and the ability to control the highways of ocean transportation——"

Mr. JOHNSON. The preceding sentence.

Mr. LAGE. "American shipping as a consequence would be completely disrupted, and the millions of dollars which the Government is currently investing in its development and maintenance would be jeopardized."

Mr. JOHNSON. I may have misunderstood the reading of it. I understood you to say it would help some countries which would be prepared to take advantage of it and some would not.

Mr. LAGE. No. I think perhaps I did not read it clearly.

Mr. JOHNSON. I may have misunderstood.

Mr. LAGE. I have, "American export trade would be placed at the mercy of that set of belligerents which had the cash and the ability to control the highways of ocean transportation."

Mr. JOHNSON. What I wanted to comment on was that if you placed it in a position that it would help one and hurt the other, you answer your own argument earlier in your statement where you said it would aid some and hurt others, and when you go to pass a resolution in conformity with your ideas even you raise that question. Isn't that the tendency of various advocates of a bill? They use a weapon to oppose a measure that they would use to condemn another measure. I thought I was about to catch you in an illogical position. You made a strong and able statement and I was trying to see if you had not used the same weapon against one bill that you had applied in condemning another bill.

Mr. LAGE. No; I do not think I have done that.

Mr. JOHNSON. Well, we all do it. It is no crime.

Mr. LAGE. My point with respect to that is, if a statute is enacted specifically for the purpose of influencing the outcome of a war, that is one thing. But if a statute is enacted long before the outbreak of a war based solely on concern for the preservation of American interests, let the chips fall where they may, that is a bird of a different feather.

Mr. BLOOM. That is neutrality.

Mr. LAGE. That is it, exactly.

Mr. JOHNSON. How long before war breaks out would a neutrality law have to be passed before it would be neutrality?

Mr. LAGE. It could be passed at any time, even after it breaks out.

Mr. JOHNSON. I thought you said it would not be neutral if it was passed long before the war broke out?

Mr. LAGE. No; I did not mean that—I'm sorry.

Mr. JOHNSON. I misunderstood you again.

Mrs. ROGERS. Of course, the countries which could be helped under the cash-and-carry plan would be Japan and Great Britain, because they have both the money and the ships.

Mr. LAGE. Yes; it would help them.

Mrs. ROGERS. To a tremendous advantage.

Mr. LAGE. Absolutely.

Mrs. ROGERS. It would really be taking sides with them.

Mr. LAGE. I do not think we would find Great Britain sacrificing her commerce in such a way. In fact, Great Britain is most anxious to extend her commerce at all times; at least, according to history.

Mr. JOHNSON. Isn't this practically the situation we are in? If we repeal the embargo against arms, implements, and munitions of war outright and leave it on the cash-and-carry basis, that is inclined to help, as I understood you, France, or I might say Britain, which has the navy. And if we fail to repeal it, then it helps the other countries. So either one way or another we are going to help somebody in passing our neutrality legislation.

Mr. LAGE. No. I see what is perhaps misleading you——

Mr. JOHNSON. Or if we have the cash-and-carry plan under the Pittman Act then we are going to help those certain countries. Isn't it true of most all of us that we are inclined and are desirous to determine these things—we want to save ourselves, yet we want to try to help the side we are sympathetic with? Isn't that involved in the case of both those who take either one side or the other, whether it is mandatory or discretionary? We think, what is going to happen to the side we sympathize with? Isn't that a frank statement about all of us with reference to neutrality legislation—we let our sympathies for a belligerent somewhat shape our views?

Mr. LAGE. Well, I think you are probably right.

Mr. JOHNSON. You probably agree on that, don't you?

Mr. LAGE. Well, I can still deplore it.

Mr. JOHNSON. I know we can all deplore it. We have to agree, after all, it is the subconscious mind back of some of our views, and that is what we have to consider in passing this legislation.

Mr. BLOOM. All right. Continue, Mr. Lage.

Mr. LAGE (continuing). In short, it is believed that provisions for cash and carry would be inadvisable internationally, and stultifying to commerce domestically. American commerce should be allowed to engage in perfectly legitimate trade at all times, and its very existence should not be made to depend upon whether foreign nations see fit to take up arms to settle mutual differences. While the embargo on shipments of lethal weapons is not entirely free from objection on similar grounds, that would appear to constitute sufficient self-abnegation, and can be justified, perhaps, by the domestic attitude toward such traffic. The case for general commodities, however, is quite otherwise. It would seem, therefore, that the most advisable course which Congress could adopt at this time would be to permit the cash-and-carry provisions of the Neutrality Act to expire by self-limitation on May 1 next.

The foregoing observations cover substantially the cardinal points raised by the Pittman-Hennings joint resolution. One or two comments might be permitted, however, on minor aspects of the bill. Recently Senator Pittman has indicated his willingness to follow the lead of Senator Nye and others in providing that Congress, as well as the President, may declare the existence of a state of war between foreign nations; such action would immediately make the provisions of the act applicable to both belligerents. This suggestion appears to be unobjectionable, but entirely unnecessary. Congress found no difficulty in asserting this very power in January 1937 when, by special

joint resolution, it made the provisions of the Neutrality Act applicable to the civil war in Spain. But even with that precedent before it Congress has seen fit to refrain from taking similar action with respect to the Sino-Japanese War.

Again, it is not entirely clear why American vessels should be prohibited from carrying passengers and articles directly or indirectly to a belligerent. While this provision would naturally fall with the defeat of the cash-and-carry suggestion, nevertheless, when dealing with any such situation it might be preferable to place the restrictions upon issuance of passports by the Department of State and acceptance of shipper's export declarations by the customs authorities.

#### OTHER PROPOSALS

In addition to the Pittman-Hennings resolution, numerous other suggestions have been advanced for congressional consideration. Little need be said with respect to proposals which would empower the President to select the so-called aggressor and to discriminate against such disfavored nation or nations. This is the very opposite of neutrality. It is a recrudescence of League of Nations psychology—and a particularly unfortunate one today when the League has so recently been exposed as futile. One observation might be permitted, however; enactment of such a proposal could almost be relied upon to assure our constant involvement in wars, large and small, on every other continent. I do not believe that the people of this country favor any such course.

The various proposals which advocate lifting our shores up about us during foreign wars through the device of embargoing all exports to both belligerents have already received attention. Not only would such legislation cripple American foreign trade, but also, it is submitted, would probably prove to be even more unenforceable than the similar Jeffersonian embargo of 1807. For 15 years until 1933 this country had experience with another unenforceable statute; the evils which it fostered have not, even yet, been fully eradicated. Furthermore, passage of such legislation would violate many of our commercial treaties with foreign nations and thus place this country in a position of parity with nations we are prone to denounce. For while restriction upon traffic in munitions constitutes a well recognized, if at times tacit, exception to promises of free commercial access to our markets, similar restraints upon trade in general commodities have never been so regarded. I believe that Congress would be ill advised to enact at the present time any such drastic proposal as complete stoppage of all trade with belligerents.

In conclusion, it would appear that the most advisable course open to Congress under the present circumstances would be to reject all suggested amendments to the present Neutrality Act. This would mean the retention of the embargo on shipments of lethal weapons to belligerents and the expiration, on May 1 next, of the cash-and-carry plan. Other provisions of the act with respect to travel on belligerent vessels, financial transactions with belligerents, and the establishment of the Munitions Control Board would be preserved.

Retention of these features of the present act would reflect the united desire of most of our people to avoid some of the more obvi-

ous pitfalls of 1914. On the other hand, abolition of the cash-and-carry plan would reassure business and would not inflict upon our export trade an injury which history shows is not deserved.

The object of domestic neutrality legislation is, by the exercise of a reasonable measure of self-restraint, to endeavor to minimize causes of friction with belligerents while at the same time observing the rules of neutrality under international law and safeguarding our legitimate American commerce. Such a course is not impossible today any more than it was impossible in 1914, as the Scandinavian countries and Holland, all much closer to the scene of actual warfare, so admirably demonstrated. While observance of a policy of neutrality is admittedly arduous, the difficulties are by no means insurmountable, even in a large war. By permitting the present Neutrality Act to take its natural course Congress would, I believe, be obviating many of these difficulties.

It is sometimes said, however, that America, having now attained the standing of a great power, must have a "positive" foreign policy, that it must make a "positive" contribution to the cause of world peace, a contribution commensurate with its position of eminence. What more positive policy could it reestablish, what more positive contribution to the cause of world peace could it make than that of an independent and neutral mediator in the present troubled world? But just as it was America's unneutrality that eventually forced it into belligerency in 1917, and thereby precluded it from its natural role of mediator, so today, the continued preference of high officials for weapons of bluster and threat seems to pledge America to partiality and thus to deprive it once more of the opportunity to make a genuine contribution to world peace either in Europe or in the Orient.

No method of maintaining American neutrality, either by statutory regulation or under the principles of international law, has even been devised which could long withstand the assaults of a Government intent upon passing unrestrained moral judgments, with their implied threats of action to follow, upon every foreign event which meets with disapproval. Little can be accomplished in the way of restraining such emotional self-gratification. Something might be accomplished, however, by making it clear that such opinions and threats are merely personal expressions which do not reflect the foreign policy of the United States. This can be accomplished by retention of the present act unaltered. And such action on the part of Congress at this time would greatly reassure an already jittery public that no steps were being taken which might facilitate American submersion in another European blood bath.

Mrs. ROGERS. I take it you feel it would be infinitely better to keep out of war no matter which side won in Europe?

Mr. LAGE. That is a difficult question to answer off-hand, but I should say "Yes."

Mrs. ROGERS. No matter which side won, our trade would go on?

Mr. LAGE. Well, my position is that if we refrain from compromising our neutrality or siding with one side now, it is very likely that peace would be negotiated in Europe. You would then have a negotiated peace instead of one that is temporarily imposed by overwhelming force; and I do not believe that any such enforced settle-

ment will last permanently. Looking at the Versailles Treaty, we can practically foretell just the situation which would happen if the United States went in again. And I do not think any of us feels that we would like to undertake settling European differences permanently. To do so, we would have to keep a permanent army over there because they are continually having squabbles.

Mr. RICHARDS. I judge from your concluding paragraph that you think it would be the best thing to let the cash-and-carry provision expire as it does in the existing act and keep the Neutrality Act just as it is, at this stage of the game!

Mr. LAGE. I do; yes, sir.

Mr. CHIPPERFIELD. Under those circumstances, Mr. Lage, it would allow our American ships to trade with belligerents. Do you believe that it would?

Mr. LAGE. I do.

Mr. CHIPPERFIELD. And you would place them at their own risk?

Mr. LAGE. That would depend. That could be done by Executive action and would depend, for example, if a situation arises where there are declared war zones and things get to the pass that they were in the last war. Perhaps it might be well for the Executive to announce that, in certain trades, he did not think that the welfare of the United States would be promoted by the Government seeking to protect it actively at that time and that he would only make claims after the war.

Mr. FISH. I was just following up that question. Why couldn't the Congress very well write into a law that our ships, we do not want to see our ships discriminated against, can carry all those goods except arms, munitions, and implements of war, except that they have to carry it at their own risk. I urge that very strongly in view of the fact that recently in Spain about a hundred British ships were sunk which were at their own risk, and during the World War Norway lost a thousand at their own risk and Sweden also. And if we put them on notice we will not be dragged into the war.

Mr. LAGE. My feeling on that is that I do not think we should enact as a statute a provision such as that, because it would react very disastrously upon our trade. No traders would undertake any commitments. Shipping companies would not care to carry any goods. When a specific condition arises that can be done by Executive proclamation saying, "I will not at the present time try to protect this trade, but I will reserve the right to make claims subsequently."

Mr. FISH. Don't you understand that this is done for the sake of profit and they can insure the boats? Even if they are insured for 100 percent they do it for the profit of it. And naturally they are going to do it and continue to do it whether the ships are insured to their full value. Cargoes may be transferred to foreign ownership. They are trading for profit. Nothing is going to stop that. If they buy for cash they can be protected. What we are trying to do is keep out of war, and if we are going to let American ships go over there without any restrictions and be sunk, of course, that is going to create a war furor over here unless we, in time of peace, say what our attitude is. We cannot change it in time of war. It would be a very cowardly act, I would say, if we did it that way.

Mr. LAGE. Well, Mr. Fish, while I agree with you entirely with respect to the trade you had in mind during the last war—

Mr. FISH. No, no. I am not for this present cash and carry which prohibits our ships from doing business while other nations do all the business they want. I think it is too stringent, unfair. I want our ships to do all the trade they can except in arms, munitions, and implements of war, but to do so at their own risk. Why isn't that proper and orderly, and why should not they carry it?

Mr. LAGE. Well, I have not considered that very fully, but offhand, my reaction would be, that I think it would be inadvisable to enact such a statute, because of the fact it will react very unfavorably upon our whole trade.

Mr. FISH. Just why do other ships do it at their risk. Certainly the Norwegian ships did all during the war, and the Dutch and Swedish, and now the British in the last war. It would not be any different from all of them.

Mr. LAGE. Well, you see, enactment of such a statute would imply that the United States would not make any claim on behalf of those vessels after the war, no matter what happened to them. That might be implied in such a provision. I do not think that is a position for this country to take by such a statutory restriction. I do not think that, for example, after the war is over the United States should be foreclosed from advancing claims by arbitration and other peaceful means of adjudication against the former belligerents, no matter who they should be, for violations of international law and American rights during the war. And I have a feeling that enactment of such a provision as you have just suggested would imply absolute renunciation by the Government of any desire to protect American trade.

Mr. FISH. Well, I agree with you thoroughly. I think fundamentally you are absolutely correct under international law. What I am thinking of is keeping the United States out of war. Therefore, I am willing to make that sacrifice. These ships will have to insure themselves to full value. They will lose nothing if they are sunk. I want to keep us out of the war. That is the only step to keep us out of war and not go to war if they are sunk. It is a sacrifice. Under the international law I agree with you. There are certain things no one likes to do. We are trying to work out some scheme to keep us out of war and prevent war passions being aroused and our being forced into the war as we were in the last one.

Mr. LAGE. Well, you see, I am inclined to have the temerity to disagree with you with respect to the thesis that trade forced us into the last war.

Mr. FISH. Then we cannot argue because we cannot get together on that.

Mr. LAGE. I tried to cover that, I believe, in the statement, before you came in. I have copies here for any of the members of the committee who would care to look it over.

Mr. VORYS. Following up this point, as I understand, Mr. Lage, under international law we have the right, as neutrals, to continue to ship until there has happened what we consider a proper blockade; isn't that right?

Mr. LAGE. That is right.

Mr. VORYS. And to protect that shipping?



Mr. LAGE. That is right, sir.

Mr. VORYS. And if we simply allowed the cash and carry provision to drop and had not even the caveat statute that Mr. Fish has mentioned of providing by law that ships carry at their own risk, the ordinary course of international law would be that our shipping would continue and be protected by our Government?

Mr. LAGE. That is correct. Would be protected by means of diplomatic representations. I am not advocating sending a cruiser over to accompany the ship.

Mr. VORYS. It doesn't make any difference whether you advocate it; under international law, unless we made a unilateral change here, we would have a right to claim the freedom of the seas for our shipping and protect it with our cruisers?

Mr. FISH. And have them armed, too.

Mr. VORYS. And arm the ships, and all the rest, under international law; isn't that true?

Mr. LAGE. Well, with respect to arming them, I doubt if that is true. Under convoy, there is a great deal of uncertainty in international law as to just what effect a convoy has. Great Britain has refused to recognize neutral convoys. It has always done so, from way back in history. It has refused to recognize the right of a neutral convoy. It says that their Navy has the right to stop illegal transportation of goods to their enemies.

Mr. VORYS. But this is legal transportation, under your view.

Mr. LAGE. Well, it boils down really to a question of what is going to be contraband during the next war. It is legal if it is noncontraband. It is illegal if it is contraband. By very definition, the term "contraband" means it is against the bans of international law. If it is contraband this Government cannot protect it.

Mr. FISH. But do you know anything that is not contraband?

Mr. LAGE. Yes, sir.

Mr. FISH. Isn't foodstuffs contraband?

Mr. LAGE. No, sir.

Mr. FISH. Won't it be in the next war?

Mr. LAGE. Foodstuffs never have been contraband. At most, they have been conditionally contraband, if destined for the armed forces.

Mr. FISH. Isn't that what they claim, and don't they get away with it?

Mr. LAGE. Well, they did. They succeeded in doing that in large measure, I am sorry to say.

Mr. FISH. That is the practical result of it.

Mr. LAGE. I am sorry to say that American acquiescence is what brought it about.

Mr. FISH. And, therefore, if they have once done it they are going to do it again.

Mr. LAGE. Not if America does not acquiesce.

Mr. VORYS. With the definition of contraband and the right of search that Great Britain plans, etc., do you mean to say you do not think that our shipping in time of war would be a source of trouble and possibly be the cause of our getting into war because of unrestrained shipping?

Mr. LAGE. I do not believe it would be the cause of our getting into war. It might be a source of trouble, but after all the maintenance

of neutrality, no matter what statute we have or what the provision is, is always difficult. I do not favor it because of the disastrous effects I feel it will have on our commerce. That is the principal reason.

Mr. VORYS. Just one more question. As I understand, earlier you said that the Executive has sufficient power without any cash-and-carry provision or any statutory self-denial on our part to forbid shipping when it becomes dangerous?

Mr. LAGE. No, sir.

Mr. VORYS. To discourage it?

Mr. LAGE. To discourage it; yes; more or less on the theory advanced by Mr. Fish, that he will not seek to protect it at that time but will advance claims on behalf of the shippers and the exporters subsequently after the war was over. That is the usual procedure. That is the way these claims have been handled in the past. After the last war we had the Mixed Claims Commission with Germany, on which we collected large sums for German infractions of our rights during the period that we were neutral. Norway, which never went into the war, collected large sums from Germany for German interference with their trade and illegal sinkings. And Norway could not force Germany to do anything. But Germany, voluntarily after the war, submitted those claims to arbitration, and the decision was in favor of Norway. I have forgotten the exact amount; I think it is 30 or 40 millions or more that she collected in gold marks.

Mr. VORYS. Well, do you think there is any prospect of this administration taking steps to forbid our shipping if we have no law which would forbid it?

Mr. LAGE. That I would not be prepared to answer. That would be pure speculation on my part.

Mr. CORBETT. I was very much interested in your discussion with Mr. Fish regarding the possibility of post-war claims. Is there any reason in the world why if the boats travel at their own risk, so far as United States protection is concerned, the United States Government would still not be in a position at the close of the war to demand payment for damages suffered by American citizens?

Mr. LAGE. That is the usual procedure. But the enactment of a statute to that effect would seem to imply and carry necessarily with it a renouncement of the claim to submit these differences to arbitration.

Mr. CORBETT. If I am not wrong, according to your testimony and Mr. Fish's statements, Norway lost a thousand boats, but still collected—what was it, 30 million gold marks?

Mr. LAGE. I have forgotten the exact amount.

Mr. CORBETT. Whatever the amount is the principle there is the same—that during the war their boats were operating at their own risk, and at the end of the war they did collect damages. Of course, that would depend to a degree on the language of the bill which was written. I feel there is a great deal of sentiment in favor of at least permitting our boats to travel at their own risk. Now, then, by proper wording of a proper bill on this subject, I believe the implication can be removed. The United States says, therefore, to the nations of the world, "Go ahead; blow up as many as you want recklessly." The thing we are trying to prevent is arousing the passions in this country as the result of incidents that can be safeguarded.

Mr. LAGE. That may be. Although passions are getting aroused today in this country and, so far as I can recollect, I do not necessarily see any definite incident that concerns American vital interest as yet. The passions can be aroused without the incidents. The incidents can be used as an excuse to arouse passions.

Mr. CORBETT. But at the same time, if we cannot by some resolution work to reduce the number of those incidents which can be used to arouse passions, then there is no point in any neutrality legislation at all, is there?

Mr. LAGE. Well, I am inclined to agree that legislation would be unnecessary if you have in control of our foreign affairs a person like John Bassett Moore.

Mr. BLOOM. Do you want to make him President?

Mr. LAGE. You don't need that. I was not advocating that.

Mr. KEE. I was interested in Mr. Fish's suggestion. I presume, of course, you are familiar with neutrality laws of some of the other nations?

Mr. LAGE. Yes, sir.

Mr. KEE. And as a matter of fact, it is true that during the last war Norway lost a number of vessels, and also recently—quite recently—during the Spanish War, England lost a number of vessels. Now, you know of no act on the statute books of either of those countries such as Mr. Fish has suggested here, that those countries renounce the right of protecting their ships?

Mr. LAGE. England, I believe, would never even consider such a proposal.

Mr. KEE. And yet there has been no act. They do reserve this right under international law to file protests against actions of sinking those ships?

Mr. LAGE. Exactly.

Mr. KEE. And also reserve their right to file claims subsequently.

Mr. LAGE. Yes, sir.

Mr. KEE. And they will file such claims. Isn't it true if we should put on our statute books such an act as Mr. Fish suggests and announce to the world that we are renouncing our right to defend our vessels, that also would renounce our right after the event?

Mr. LAGE. That, I am afraid, may be the interpretation placed upon it. And furthermore, it would be an invitation to the belligerents to go as far as they care to.

Mr. KEE. In other words, by such an act we would be surrendering all rights which we have under international law to make claims?

Mr. LAGE. I am afraid we might be estopped.

Mr. KEE. I was interested in your statement that the principle of international law had been long settled that travelers upon foreign ships take their protection from the flag of the ship.

Mr. LAGE. Yes, sir.

Mr. KEE. On which they travel?

Mr. LAGE. Yes.

Mr. KEE. I expect you recall there was an incident of that kind which happened during the Civil War—a very famous incident when two representatives of the Confederacy were sent to England and were taken off a British ship?

Mr. LAGE. Yes, sir.

Mr. KEE. And under the principles of international law they had to be restored by the United States to Great Britain?

Mr. LAGE. Exactly. Even during the last war the United States took the same position when Great Britain removed certain German citizens from American vessels on the high seas; the United States took the position that those Germans had to be restored to the United States, and they were restored.

Mr. KEE. So you see any objection, however, to the enactment in a Neutrality Act that we might draw up at the present time a provision that American citizens should travel on belligerent ships at their own risk.

Mr. LAGE. My only objection to it is that it might seem to imply that such is not the law anyway. But I see no harm in repeating it.

Mr. KEE. There would be some implication to that which would be the same as the enactment of a statute with reference to trade?

Mr. LAGE. Yes, sir. That was exactly Secretary Bryan's position.

Mr. KEE. Well, in cases where the maintenance of our trade rights would mean the difference between peace and war, wouldn't you be in favor of trade surrendering rather than that we should go into war in order to protect the rights which we have under international law?

Mr. LAGE. That is a difficult question to answer offhand. But I would say, "Yes," naturally, with the reservation and explanation that, if our affairs are handled in an expeditious manner, such an impasse would never arise. It did not arise for Norway and did not arise for any of the Scandinavian countries, or Holland.

Mr. KEE. The settlement of these matters would depend on the manner in which each country handles that question?

Mr. LAGE. Absolutely. Whether you are going to rush into the war is going to depend upon the domestic handling of the situation.

Mr. KEE. That would be so whether you had a Neutrality Act or not?

Mr. LAGE. Exactly.

Mr. KEE. The handling of it would be the same as under international law?

Mr. LAGE. Exactly.

Mr. KEE. Do you believe in a rigid inflexible Neutrality Act or one that we could change after the hostilities commence?

Mr. LAGE. Well, I do not know quite how to answer that. If you mean, do I favor a provision which would permit discrimination between belligerents, I do not, because I think that is the short cut to war.

Mr. KEE. Well, isn't it your opinion that as to any Neutrality Act that we may enact or that Congress may put upon the books now, in the event that hostilities break out after its enactment, it would be considered possibly a hostile act, or possibly an act of war for us, in the midst of hostilities, to make radical changes?

Mr. LAGE. That might be, and it probably would be, except in a case where we decided to strengthen the law, applying it impartially and not with the purpose of trying to influence the outcome of the war; if we enact such change in order better to preserve our own neutrality, it is not open to objection as a hostile act. If we found it necessary, for example, during the course of the war to embargo,

shall we say, scrap iron, or if we found it necessary to deny admission to submarines to our harbors at all, the fact that only one belligerent had submarines would be immaterial of our action were for the purpose of protecting ourselves in our neutral position. All such changes are, of course, subject to close scrutiny by the belligerents and you will get protests from the belligerent who is adversely affected. But, if the purpose is to preserve American neutrality, there can be no valid objection. If, however, it is to influence the outcome of the war, that is a complete departure from neutrality right at that point.

Mr. KEE. Thank you.

Mr. SHANLEY. Judge Kee brought out, and I would like to emphasize that point, to say it is unwarranted to say the people of Norway and the people of Denmark had a law which took away the privileges Mr. Fish said it took away. They got their claims afterward. And in Mr. Kee's opinion, even if you admit that you will give up the rights of the sea, it is all right, provided you still reserve the right to collect after the war.

Mr. LAGE. Yes.

Mr. SHANLEY. I think that is a unanimous statement. I am glad it was brought out. I would like to emphasize it. I think it is important. I would want to say, then—I think you will probably agree with me—the most forceful League of Nations man, Professor Seymour, made the statement unless we insist on our rights we are going to be just mollycoddles and they are going to do whatever they can.

Mr. LAGE. Because you give a fellow a nickel does not mean you give him all your fortune. But I do think that as soon as you start giving away your basic rights that you are then going to invite action by belligerents that will be unrestrained and become progressively worse. Is that what you had in mind?

Mr. SHANLEY. I agree with you there. As a practical matter, will not the outbreak of war mean a fight on contraband?

Mr. LAGE. Yes.

Mr. SHANLEY. And unless we send materials to both sides they are going to insist upon an extension of that right?

Mr. LAGE. Yes.

Mr. SHANLEY. And if we pursue the same tactics as we did from 1914 to 1917 we may just as well throw neutrality out of the window?

Mr. LAGE. Exactly, because we were not neutral then.

Mrs. ROGERS. Is it not true that should there be a European war and the cash-and-carry provisions should be enforced that belligerent submarines would sink our ships just the same, whether our ships were carrying supplies to belligerent countries or not? They will not be very careful about the ships they sink. And it will bring the submarines nearer to our shores and bring war much nearer to our shores?

Mr. LAGE. Of course, as far as bringing them much nearer to our shores, it has been brought out at various times in the past that British cruisers were not so far distant from our shores during the last war. And with respect to submarines attacks, it may have the result you suggest. But, looking at the experience of the last war, the submarine sinkings of our ships were not very numerous while we were neutral.

Mr. FISH. Would it be possible to write into the law a provision that these ships will go to belligerent nations with their cargoes at their own risk but that we would reserve the right to collect damages after the war?

Mr. LAGE. Well, that might be possible. But I would like to give that more thought. I am inclined to say that that would promote belligerent excesses. Now, one of the chief deterrents on belligerent excesses are neutrals. They do not want to alienate neutrals. That restrains them, and that is where neutrality exerts a great restraining influence on belligerent excesses. They do not want to alienate them completely. If a powerful neutral takes the position that it will not do anything to protect its shipping, "We will not even protest, and try to maintain international law," I think that would be just inviting excesses on both sides. One side would be making excessive attacks on American shipping and the other side in retaliation would carry the excesses further. If not curtailed, we would be back in the law of the jungle. That is just my personal opinion offhand, without considering your suggestion at length.

Mr. FISH. What would be your opinion if there is a war between Great Britain and Germany in the near future, do you believe that Great Britain will pass our ships carrying foodstuffs to Germany?

Mr. LAGE. Probably not, if she can avoid it. But she can be prevented from taking that action.

Mr. FISH. You are not in favor of going to war about it, are you?

Mr. LAGE. No, sir. But I think we can discourage her from taking that action.

Mr. FISH. That is what I am talking about. We have to make certain sacrifices under international law of our rights to avoid war. I do not know any other way of keeping out of war except to make these sacrifices in advance.

Mr. LAGE. Well, that is way, the exact reason—I agree with you on that, sir—that is the reason I advocated retention of the embargo on munitions in its present form. We could then say to the belligerents:

You do not have to stop our ships; we undertake that absolute contraband is not going to be exported from this country to your enemies. Even if you cannot get it, you can rest assured your enemies are not going to get it.

Then our State Department and our Executive would be in a very strong position to say:

On the other hand, you must restrain your contraband list to reasonable limits, having given you this assurance.

Mr. FISH. Who gets up that list?

Mr. LAGE. The belligerents always get up their contraband lists.

Mr. FISH. All lists.

Mr. LAGE. All lists, usually. International agreement on contraband strikes me as one of the most desirable and basic factors here. We had that in the Declaration of London. The Declaration of London was merely a restatement of preexisting international law. Now, when England threw that over without our protesting, and even with our help, in the last war, why, we sacrificed one of our most potent weapons.

Mr. FISH. I quite agree with you.

Mr. SHANLEY. I was just going to ask why England would prevent shipments of food to Germany, would that be because of an effective blockade?

Mr. LAGE. No. That is because Great Britain likes to use its Navy for economic blockades.

Mr. SHANLEY. Yes. But it would not be an international blockade unless it was effective.

Mr. LAGE. Oh, no. I was talking not as a matter of law but of what England would probably attempt to do, based on past experience.

Mr. SHANLEY. Certainly, as a rule, we would protest if they attempted to prevent food getting in there unless it was for the armed forces.

Mr. LAGE. Certainly.

Mr. JARMAN. Do you or do you not regard a European war as inevitable?

Mr. LAGE. No; I do not.

Mr. JARMAN. Well, assuming that it should come, do you think that a neutrality law as suggested by you—that is, the present law, permitting the cash-and-carry plan to expire—would keep us out of it?

Mr. LAGE. No neutrality legislation is going to keep you out unless you want to keep out. And on that score it strikes me that no truer words were ever spoken than those by President Roosevelt in a speech 3 years ago at Chautauqua, when he said that the effective maintenance of American neutrality depends upon who occupies the offices of President and Secretary of State. I do not think any legislation, no matter what its provisions, can control those two supervising guides to American policy.

Mr. BLOOM. Mr. Lage, the committee is very much indebted to you for appearing before it and giving us the benefit of your knowledge. I think you have upheld the reputation of your book on neutrality. Thank you very much.

#### STATEMENT OF HON. JOHN M. COFFEE, REPRESENTATIVE IN CONGRESS, FROM THE STATE OF WASHINGTON

Mr. BLOOM. Mr. Coffee, will you give your name to the reporter?

Mr. COFFEE. My name is John M. Coffee, Representative from the State of Washington.

Mr. Chairman and gentlemen of the committee, I introduced a bill known as H. R. 5432,<sup>1</sup> which, in effect, contains provisions to prohibit the export of arms, ammunition, and implements and matériels of war to Japan; to prohibit the transportation of arms, ammunition, implements, and matériels of war by vessels of the United States for the use of Japan; to restrict travel by American citizens on Japanese ships; and otherwise to prevent private persons and corporations subject to the jurisdiction of the United States from rendering aid or support to the Japanese invasion of China. It might be called the Japanese embargo bill.

It provides that it shall be unlawful to export or attempt to export arms, ammunition, implements of war, or matériels of war from the United States to Japan or to any other state for transshipment to or for the use of Japan.

<sup>1</sup> See p. 830.

The arms, ammunition, and implements of war referred to are those enumerated pursuant to section 1 (d) of the joint resolution of May 1, 1937.

The matériels of war under this bill shall include scrap iron, scrap tin, and all other metals, petroleum and petroleum products, machinery capable of use in the production of armaments, and engines, engine parts, and other manufactures capable of use in airplanes, tanks, artillery, or other implements of war.

It provides such matériels of war shall also include such other articles as the President may enumerate by proclamation upon finding that such articles are capable of or are being used for military purposes.

It also provides it shall be unlawful to deal in securities of the Government of Japan; or to make any loan; or to solicit any contribution for such Government, excepting for funds to be used for medical aid or food or clothing to relieve human suffering, when such solicitation is not made by anyone acting in behalf of the Government of Japan and shall not be used by the Government of Japan. Such solicitation shall be subject to the approval of the President, to be made under such regulations as he shall prescribe.

It provides it shall be unlawful for any American vessel to carry arms, ammunition, or implements of war or matériels of war, to Japan or to any neutral state, for transshipment to, or for the use of the Government of Japan.

It also provides whenever the President shall have cause to believe that any vessel is about to carry out of a port of the United States fuel, men, arms, ammunition, implements of war, or other supplies to any warship or supply ship of Japan, the President shall cause a bond to be given that the ship will not deliver the men or any part of the cargo to any warship, and so forth, of Japan.

If the President shall find that a vessel in a port of the United States has, at any time after the date of this act, previously cleared from a port of the United States and delivered its cargo to any ship of Japan, he may prohibit the departure of such vessel.

It shall be unlawful for any warship, submarine, or armed merchant vessel of Japan to enter a port or territorial waters of the United States or to depart from them, except under conditions as the President may prescribe.

It also provides no citizen of the United States may travel on a Japanese vessel except in accordance with such rules as the President may prescribe.

Any proclamation made under section 3 of the act shall be reported to the Congress and may be annulled by a concurrent resolution adopted by both Houses of Congress.

The prohibitions of this act shall cease to apply when the President shall find that the armed forces of Japan have withdrawn from Chinese territory.

It also provides a penalty of \$10,000 or imprisonment for 5 years, or both, for a violation of the provisions of the act.

In my district, on the Pacific coast, gentlemen, more than 350,000 people have already sent a petition directed to the Congress urging an embargo on the shipment of arms, ammunition, implements of war, or materials of war to the Japanese Empire. There is a tremendous feeling not only on the part of organized labor but on the



part of church people and citizens generally that the continued shipment of these goods by the United States to Japan is proof we are definitely aligning ourselves with the Japanese, and in fact making ourselves a partner to the aggression of Japan, and to that extent we are more or less involving ourselves in the Asiatic muddle. The situation is so bad that we have already shipped more than \$300,000,000 in war materials in the last year and eight months to the Japanese. It has brought forth protests from every women's organization in the United States. I have a list of those to which I will briefly refer.

They have all expressed themselves by formal resolutions as being in favor of a formal embargo on the exportation of arms, ammunition, implements of war, or materials of war to Japan. The Gallup poll shows 80 percent of the American people are in favor of a provision in our law designed to prohibit the shipment of such goods. We have leading citizens in the United States, such as Senator Pittman, Senator McNary, who have expressed their support of a measure—not any particular measure—I do not have any private authority on this particular bill, but a measure incorporating an embargo on the shipment of munitions and materials of war to Japan.

The statistics about the goods we ship to Japan are appalling. In 1937 Japan depended upon the United States for 92.9 percent of its copper, 91 percent of its import of automobiles and parts, 61 percent of petroleum and oil, 48.5 percent of its imports of machinery and engines, 42 percent of its pig iron import and 60 percent of other iron and steel. On the other hand, we bought more than 90 percent of all the silk which Japan exports. We are Japan's best customer from the standpoint of the sale, mainly of silk, and of toys, although the export by Japan of toys has decreased almost 50 percent in the last 2 years due to the effect of an unofficial boycott.

Mr. ALLEN. Won't we be financing Japan in here acts of aggression if we continue to import just as much as we do? That is equally important, it seems to me.

Mr. COFFEE. I agree with you. I want to offer some basis for some kind of legislation. I am certainly in favor of the same thing you advocate, Mr. Allen. I believe we likewise ought to embargo the import of Japanese goods. But I started off with this bill, limiting it mainly to exports.

Mr. ALLEN. If we are going to stick our neck into it, as apparently we are, by enforcing such an act, in one respect, it seems to me we ought to go the whole way and make a complete job of it by prohibiting imports.

Mr. COFFEE. I am willing to do that.

Mr. VORYS. Mr. Coffee, while prohibiting both imports and exports might be more effective, yet, certainly a prohibition of exports would be something.

Mr. COFFEE. It is a start. It seems to me we should show that we do not want to be a partner to the acts of aggression by Japan. China agreed in 1922 to forego an embargo of Japanese imports as the result of the Washington Conference on the plea of the United States. They would not have done it for France if she had asked them; and they said so. They would not have done it for England if she had asked; and they said so. Thereafter we negotiated the Nine Power Pact whereby the signatories guaranteed the territorial integrity of China. As a result of that Japan gave up Shan-

tung, the sacred Province of China, and restored it back to China's people. What happened? Ever since the war Japan has violated every treaty to which she has been a signatory. She violated the Nine Power Pact, the Kellogg-Briand Pact, an instrument whereby the signatories renounced war as an instrument of international policy. It has repudiated the "open door" in China, and has violated every treaty to which she has been a signatory. She violated her understanding with the League of Nations when she received the mandated islands of Marianna and Caroline. As a mandate it was agreed by the Japanese that they would not arm these islands or fortify them. The testimony all shows, although there is nothing definite, that she has fortified these islands and violated the covenant by which she received that mandate.

In this last Congress we have passed appropriations for the largest Navy and naval-construction program in our history, more than \$1,200,000,000. The main reason advanced by those who advocated this large appropriation was that it was suspected that Japan is now building three dreadnaughts in excess of treaty limitations. Japan itself voluntarily repudiated the treaty whereby she agreed to a certain definite naval ratio. In other words, we are in the anomalous position of spending an enormous fortune to build up our Navy so as to defend ourselves against Japanese aggression while at the same time we are furnishing her with the means whereby she grows more powerful in the Orient. If we stop the sale of scrap iron and petroleum alone within 3 to 4 months Japan will have to stop the war on China. She cannot get the oil anywhere else in the quantity she gets it from the United States. She cannot get the high-test oil which she uses in her airplanes from any other country. About 30 percent of her petroleum is bought now down in the Dutch East Indies. She gets it in the form of crude oil and is trying to refine it with very little success. The Japanese have had very little success in the refinement of high-test oil.

Secondly, Japan depends upon us for the purchase of high-test gasoline and she depends upon us for scrap iron. The export of scrap iron, from the United States to Japan, has reached such a point that it actually tripled the American market. We find that independent steel manufacturers in this country are at a loss to secure adequate supplies of scrap metal—the small independent steel manufacturers who have to buy scrap metal in the open market. We have a great many on the Pacific coast because we don't have any iron mines out there. They are practically at a standstill in the matter of buying scrap metal because of the enormous demand from Japan. Every day out of the ports of Tacoma, Seattle, Portland, San Francisco, and San Pedro enormous shipments of scrap iron coming from all over the United States go over to Japan. It has reached a point where many labor unions out there, rightfully or wrongfully, are picketing those ships.

I will not go to any great length in this discussion. I have made a considerable study of the subject. I have all the statistics here of exactly what kind of imports Japan uses. I have the statistics here on the amounts and the proportion of the amount and how it compares in 1938 with 1937. The main thing, I think, before this committee in considering these resolutions, however, is a matter of the principle involved, as to whether or not it is sound policy for the

United States to inaugurate any specific embargo bill aimed at any particular country.

Mr. BLOOM. What do you think?

Mr. COFFEE. I think it is. I would not have introduced this bill if I had not thought it was. I agree with Senator Pittman that if we are going to have a "cash and carry" provision, as provided in this bill, with no discrimination between belligerents, we would have to allow the sale of munitions of war to any belligerent country on a cash and carry basis. The objection immediately raised, however, is that while it would be thought we wanted to show friendliness for Great Britain and France because they control the seas of the Atlantic, it would immediately be regarded as an act of friendship to Japan and not China, because the latter country does not control the Pacific as does Japan. The effect of the bill would be to aid and abet Japanese imports. Senator Pittman answered that argument by saying he thought it would be very proper to couple up his bill with a specific measure providing for the embargo on shipments of munitions and materials of war to Japan. Recently, a poll was taken of leading newspapers of the United States on the question of what they thought about the embargo on the shipment of munitions and materials of war to Japan. It was found that 690 out of 700 newspapers examined editorially, urged a boycott of Japan. That is the most amazing proportion of newspapers in American history in agreement on a particular question.

With respect to neutrality. These newspapers are somewhat divided on the question of taking a stand in support of the Thomas resolution, as introduced by Senator Thomas in the Senate, which is familiar to you gentlemen on the committee, distinguishing between aggressor and victim subject to the consent of the majority of Congress. But they all, that is, the 690 out of 700, agreed there was a different situation in the Orient. No one could justify the action of Japan in violating all treaties and invading a friendly country. No kind of excuse could be offered, such as Germany offered in connection with her European activities, of repatriating citizens under another flag.

Mr. BLOOM. Mr. Coffee, what is the boycott that was advocated by the newspapers? Was it the same as your resolution?

Mr. COFFEE. No; I do not say that it would go quite so far.

Mr. BLOOM. What was the boycott you referred to on the vote taken by the different newspapers?

Mr. COFFEE. The advocacy in the newspapers was to the effect that we should boycott the purchase of Japanese goods and boycott the shipment of materials of war and munitions of war to Japan. Most of them did mention something about a law. I do not want to mislead the committee by saying they all advocated specifically any kind of a particular piece of legislation but they did advocate—all of them—voluntary action to that extent.

Mr. BLOOM. Would your resolution really name Japan as the aggressor nation?

Mr. COFFEE. Well, there is nothing in the resolution.

Mr. BLOOM. I know, but would it not imply that?

Mr. COFFEE. Well, it probably would. It probably would imply that it was an aggressor nation. Yes.

Mr. BLOOM. Then what would follow?

Mr. COFFEE. What would follow?

Mr. BLOOM. Yes. If we declared Japan an aggressor nation?

Mr. COFFEE. We have declared it—in repeated declarations on the part of the Secretary of State and on the part of our President, that they are the aggressor already. In his official statements, the men in charge of our foreign affairs, I do not refer to this committee, or the Senate committee, but the President and the Secretary of State and his assistants, in one form or another, have made that declaration several times that Japan is the aggressor—that they are invading China, and so forth.

Mr. BLOOM. Well, they did not use the word "aggressor."

Mr. COFFEE. Well, they may not have used that particular word.

Mr. ALLEN. Are you interested in punishing Japan for her acts of aggression or for the fact that she broke her treaty?

Mr. COFFEE. I am emphasizing the treaty violations on the part of Japan and I am particularly distressed that we should become a partner to the building up of a potential enemy and then build an enormous Navy, because it is repeatedly told to us that Japan is our one naval menace in the world today. The excuse given by the Naval Affairs Committee and the naval appropriations subcommittee of the Navy is that Japan constitutes a naval menace and that therefore we must spend an enormous sum of money to prepare ourselves against Japan. We are sending over these goods all the time to build her up. Without our constant aid Japan would not be in the position which she occupies today.

Mr. ALLEN. Do you feel that her campaign in China would bog down if we withdrew our indirect support?

Mr. COFFEE. Absolutely. Every expert on the subject has agreed as to that. Without two things alone—without petroleum, that is, gasoline—particularly high-test gasoline and without scrap metal, her whole fight in China would end inside of 4 months.

Mr. RICHARDS. Mr. Coffee, I would like to ask you this. You mentioned a while ago the possibility of getting crude oil from the South?

Mr. COFFEE. Yes.

Mr. RICHARDS. That is in the Dutch East Indies. Now, what about iron ore and scrap iron? Can they get it anywhere else?

Mr. COFFEE. Nowhere else.

Mr. RICHARDS. Nowhere else?

Mr. COFFEE. Well, maybe in small quantities but nothing like the proportion that they get in this country. And they cannot get high-test gasoline anywhere else.

Mr. RICHARDS. And the iron angle of it? How about iron; can they get iron and scrap iron from other countries?

Mr. COFFEE. They can get scrap metal but nothing like they get from the United States, in that quantity. I have the official figures here of the comparison with other countries, somewhere here in my file, the proportion they get from America and the proportion they get from other countries.

Pig iron: From the United States they get 41 percent, from Manchuria, 22 percent; from British India, 24 percent; Belgium, 1 percent.

Other iron: United States, 60 percent; Germany, 5 percent; Belgium, 5 percent, etc., and it dwindles down to 1 percent.

Copper: From the United States they buy 93 percent; from Canada they buy 3½ percent.

Incidentally they get the greatest amount of their lead from Canada.

Mr. RICHARDS. Would you follow that up with—what do you think about the food angle of it, say, cotton, wheat, corn, and things like that? They buy a lot of that.

Mr. COFFEE. They buy a lot of cotton. That is right. Which is used, of course, both domestically and in guncotton and in connection with munitions. They buy a lot of cotton from the United States. It is not listed here among these materials of war.

Mr. KEE. Mr. Coffee, of course, you understand that we are trying here to write a Neutrality Act. Wouldn't you say that this proposed measure of yours would be considered an unneutral act, rather than a Neutrality Act?

Mr. COFFEE. Well, it all depends on what one's definition of neutrality is. If we imposed the Neutrality Act today on China in the Sino-Japanese situation we would then find that we are a partner of Japan because under the Neutrality Act as it exists, with the cash and carry provisions, if they ship in their own bottoms, Japan could come over here and buy materials and China could not buy anything. Therefore, I say neutrality, in its practical workings, has not, and cannot prove to be a neutral undertaking.

Mr. KEE. Wouldn't this act make us a partner of China?

Mr. COFFEE. No. It would deny to the United States, it would refuse the honor to ourselves of aiding and abetting the Japanese in providing means whereby they can violate treaties to which we are a signatory, and at the same time build themselves up as a potential enemy of the United States.

Mr. KEE. You just stated a moment ago that your bill, in effect, did name an aggressor nation.

Mr. COFFEE. Well, it does not. You may construe it that way, but it does not say anything about it. It merely sets forth that we should embargo the shipments. It does not have any whereases or any explanation—it just provides for an embargo on the shipment of these goods to Japan. I stress the treaty violations of Japan as the basis for that.

Mr. KEE. Wouldn't you consider that passing an act naming a single nation in the world as an aggressor nation would not only be considered an unneutral act but more or less an act of hostility on our part?

Mr. COFFEE. Well, there has been a lot of argument on the question. In this Congress your two committees are hearing different witnesses as to whether the Neutrality Act of 1937 should be continued; whether we should pass the Thomas amendment which provides for discrimination between aggressor and victim, subject to the consent of Congress; or whether we should support the Pittman bill providing for the cash-and-carry proposition. And the peace societies, those who have made a study of this question throughout the United States, are divided as to what is the best procedure to pursue. Miss Rankin, who represents the National Council for the Prevention of War, and Stephen Raushenbush, Mr. Libby, and such men as Charles Beard all insist we should rigidly support a neutrality bill such as was passed, or even strengthen it. Mr. Fish, I was interested in noting, now says

we should allow the shipment of these goods and materials of war—not munitions or materials of war. He has a bill pending in Congress preventing the shipment of materials of war in time of peace. So he was arguing against his own bill here before this committee. But I don't want to get away from the subject. I merely want to say this: There are a great many peace societies who say that a bill distinguishing between aggressor and victim should be passed. We do not need to call it a neutrality bill. It can be construed as such, but it might not be a neutrality act. But to prevent the shipment of munitions and materials of war, we should make some attempt to distinguish between those countries that are treaty violators—that is what the Thomas amendment says—and those who are not. And personally, I am in favor of making that same distinction.

Mr. VORYS. None of the other bills we have are neutral, are they, in that they are impartial?

Mr. COFFEE. They cannot be made impartial. You have got to look at this thing realistically. We can listen here to a man talk on international law and what the international law might provide. But as he has pointed out, the London Naval Conference of 1909 has recapitulated those goods which the countries up to that time had generally agreed should be contraband goods. And yet England in 1914 repudiated and violated her own London Naval Conference.

Mr. VORYS. What we do by a law is entirely one-sided?

Mr. COFFEE. Yes.

Mr. VORYS. If we do not do anything we may have a one-sided view?

Mr. COFFEE. Yes.

Mr. VORYS. Therefore, the only thing we have before us is what we can do on one side that will help, and the result of which will be to help the people we think ought to be helped.

Mr. COFFEE. That is the way I feel, exactly.

Mr. VORYS. Now, another thing. Your bill just goes ahead and does for Japan the thing that the Thomas amendment, and so forth, urges; isn't that true?

Mr. COFFEE. That is right.

Mr. VORYS. It just gets right to the place, without any fuss and frills, that the Thomas amendment gets around but it does not create any precedent when a situation arises exactly such as Japan is now?

Mr. COFFEE. That is the way I feel. We have had embargo bills before. There is nothing unprecedented about an embargo.

Mr. BLOOM. Would not the Pittman bill apply this same embargo on everything?

Mr. COFFEE. He has the cash and carry provision.

Mr. BLOOM. In his amended bill?

Mr. COFFEE. That is what I understand. I understand if they are in a position—I may be wrong—if they are in a position to pay cash and carry in their own ships.

Mr. BLOOM. Mr. Coffee, do you wish to return at 2 o'clock?

Mr. COFFEE. No; I do not think it is necessary, unless the gentlemen have some questions.

Mr. BLOOM. Thank you very much. Any statement which you wish to insert in the record you have permission to do so.

We will recess until 2 o'clock.

Mr. COFFEE. That is very kind of you.

Mr. VORYS. I want to ask if Mr. Coffee could not select from his data—not a whole lot of mere propaganda stuff—but some figures and statistics that might be helpful to the committee.

Mr. COFFEE. I will be very glad to do that.

Mr. BLOOM. I have already given permission to Mr. Coffee to insert any matter which he might wish or think necessary to give the committee further information.

We will recess until 2 o'clock.

Congressman Coffee submitted the addition statement which follows:

In the following table are shown Japan's chief imports necessary for war purposes, and the percentage of their total which came from the United States and other chief countries:

Commodity and countries	Percentage of total in 1937	Commodity and countries	Percentage of total in 1937
All oil:		Lead:	
United States.....	60.5	Canada.....	41.4
Netherlands Indies.....	30.8	British India.....	10.7
British Borneo.....	4.4	Australia.....	5.8
Ores (iron, zinc, etc.):		United States.....	4.1
British Malaya.....	33.9	Tin:	
China.....	16.9	Straits Settlements.....	50.5
Philippine Islands.....	11.9	China and Hong Kong.....	25.6
British India.....	9.9	Netherlands Indies.....	3.2
Australia.....	6.3	Zinc:	
United States.....	4.7	Australia.....	43.8
Great Britain.....	1.3	Canada.....	23.2
Pig iron:		United States.....	20.4
United States.....	41.6	Aluminum:	
Manchuria.....	22.3	Canada.....	67.0
British India.....	24.2	Norway.....	22.0
Soviet Union.....	0	Great Britain.....	6.6
Great Britain.....	1.5	Switzerland.....	1.4
Belgium.....	.9	United States.....	.8
Other iron:		Automobiles and parts:	
United States.....	50.7	United States.....	91.2
Germany.....	5.6	Germany.....	3.5
Belgium.....	5.4	Great Britain.....	2.2
British India.....	4.8	Machinery and engines:	
Great Britain.....	4.0	United States.....	48.5
Netherlands Indies.....	2.1	Germany.....	25.6
Australia.....	2.0	Great Britain.....	14.7
Copper:			
United States.....	92.9		
Canada.....	3.5		

#### AFTER RECESS

The committee reassembled at 2 o'clock p. m., pursuant to recess.

Mr. BLOOM. The committee will come to order, please. Miss Rankin, will you kindly give your full name and whom you represent?

#### STATEMENT OF MISS JEANNETTE RANKIN, WASHINGTON, D. C., FORMER MEMBER OF CONGRESS

Miss RANKIN. My name is Jeanette Rankin, former Member of Congress. I am representing myself.

Mr. Bloom and members of the committee, I may have nothing to add to what I have said to each of you personally, but I am one witness that has her mind made up on several points. One is that war cannot be made fair and just. That there is no such thing as an absolutely

neutral position and that there is no such thing as a perfect law. I do believe that there are certain principles or ideals toward which we should strive, and to me the greatest ideal and one which we must advance as we approach it is an ideal of democracy in which the dignity of the individual is held supreme and the necessity of advancing the slowest is practiced.

I have often said to people over the country that one of the great experiences of my life was witnessing "the will of the people substantially expressed" in the neutrality legislation passed by Congress in 1935. Those of you who were here then will never forget the opposition of the administration to that bill. And I shall never forget the courage of this committee and the Members of both Houses of Congress in insisting upon recognizing the sovereignty of the people. I am convinced that the desire of the people which you expressed at that time has saved the lives of perhaps millions of people by saying to the governments of other countries, "The American people don't want to go to war."

I believe the neutrality act prevented a world war in 1935 when Italy went into Ethiopia; again in 1938 in Asia, and at that time determined the policy of England in Europe. And if the neutrality is continued, it will prevent a general war in 1939. My reasoning may appeal only to me, but I shall be eternally grateful to this committee and the Members of Congress for their conscientious desire to express public opinion in neutrality legislation to embargo arms, ammunition, and implements of war to warring nations, and including loans and credits.

Legislation regarding embargoes is related to two purposes—one to assure trade and the other to keep us out of war.

I am interested only in keeping out of war. I am willing to suffer the consequences of loss of trade, for they are temporary and can be adjusted later. The loss from war is permanent, the pace of progress is always retarded and it may take hundreds of years to regain the standards we have now—both moral and material—if we fail to keep out of war. Civilizations have been lost in the past; they can be lost in the future.

Nearly everyone will admit that all laws might be improved. Therefore improvements could be made in the present act. To sell arms to a country until it is fully equipped and then when it starts a war to say it cannot have more is absurd. The resolutions by Mr. Fish and Senator Nye would stop the shipment of arms to all countries beginning immediately. This would be a great improvement over the present situation.

All efforts to put the determination of national policy in the hands of Congress is in line with our Constitution and the will of our people. As I understand it, it is the duty of the Executive in adjusting international relationships to carry out the national policy expressed by Congress. War and preparation for war are national policies until international relationships have been established by "choosing" an enemy in a declaration of war. It is difficult for Congress to make fixed rules to apply in unknown emergencies unless they lay down broad principles to be followed. The direct way for Congress to regain the power of saying when the neutrality



shall be applied is to put it into effect now and apply it to all countries.

Those interested in profits in the war system would work very hard to prevent such an amendment.

The term "cash and carry" is a slogan and very deceptive. It is merely words, unless it is clearly stated, "cash and carry" what? Arms or foodstuffs? And "cash and carry" where? To friends or enemies? And when? During war or an armistice?

Senator Pittman's bill means selling arms to friendly states(?) on the one side and an enemy state(?) on the other. The cold fact is it provides for the sale of arms.

Is it a mere coincidence that this change is suggested now, or is it because the mother of our country needs assurance that we will help her, before she decides to continue her dominance of the world? I think it is time that we assume the attitude of an adult nation and again assert our independence, say we are going to stay at home and try to get our own house in order, try to work out our own economic problems, conscientiously endeavor to keep the treaty we so bravely proposed as our national policy—the policy of the United States—to accept the moral responsibility to renounce war. The only way to secure the enforcement of a treaty is by an expressed public opinion. A treaty to renounce war certainly cannot be enforced by war. Today the will of our people is to stay out of foreign wars.

It might help to prevent more wars if the people of the United States made it perfectly clear to the people of all countries that our abundance in resources, money, and men is not available for the settlement of their boundary disputes or any other disputes.

The only reliable and clear voice that can be heard around the world is the voice of Congress. The Executive cannot represent the people as well as Congress. The President's job is to execute the commands of the people as expressed by Congress. The people of the world appreciate this. I have met few Congressmen who do not subscribe to this view. That is why our democracy is worth fighting for. The first step toward fascism is to ignore or decrease congressional powers.

Therefore, I plead with you to meet your responsibility by expressing in concrete action the people's clearly expressed desire to stay out of war. Increase, if you can, your own control over the national neutrality policy but refuse emphatically to supply arms to warring nations.

Mr. BLOOM. Are there any questions?

Mr. JOHNSON. Miss Rankin, what change, if any, would you make in the present neutrality law?

Miss RANKIN. I would like to have it apply immediately to all countries, the part that has to do with selling arms and ammunition and implements of war.

Mr. JOHNSON. Well, the portion with reference to arms and ammunition applies immediately when the President finds a state of war exists. How would you change that?

Miss RANKIN. To have it apply immediately; that we never sell arms to any country at any time.

Mr. JOHNSON. You would prohibit the sale of arms at any time during war or peacetime to all countries?

Miss RANKIN. Yes.

Mr. JOHNSON. Then what would you do with reference to other commodities and arms, implements and munitions of war, in the neutrality law, to have any legislation on that?

Miss RANKIN. I think it should remain the same.

Mr. JOHNSON. You would renew the present cash-and-carry law which expires May 1?

Miss RANKIN. I think there are advantages and disadvantages in the cash-and-carry provision. It is selling to the rich more than it is to the poor, and it is a very complicated program to determine.

Mr. JOHNSON. Therefore, since it is hard to determine without saving one and hurting one, you would not have any law upon other commodities, other than implements and munitions of war, and you would let the law apply only to what is called lethal weapons?

Miss RANKIN. I think so, at the present time.

Mr. JOHNSON. Just let this law expire on May 1 with reference to cash and carry, not have any provision except as to arms, ammunition, and implements of war, deny credit, and I assume you would want to continue the present law with reference to American citizens traveling upon British ships?

Miss RANKIN. Yes; I would continue that.

Mr. JOHNSON. You voted against war in 1917, I believe?

Miss RANKIN. Yes, I did.

Mr. JOHNSON. How many Members voted against the war resolution?

Miss RANKIN. There were 49 men and myself in the House, and six in the Senate.

Mr. JOHNSON. Were you the first woman Member of the House?

Miss RANKIN. Yes. Mr. Tinkham is the only one here that was in Congress then, on this committee.

Mrs. ROGERS. Miss Rankin, how many groups do you represent?

Miss RANKIN. I represent just myself.

Mrs. ROGERS. I had an idea that you represented a number of groups.

Mr. BLOOM. It was stated here this morning, Miss Rankin, that you did represent quite a few organizations. What organizations do you represent? Not here today, but what organizations do you represent?

Miss RANKIN. I am not a paid lobbyist, and I do not represent any officially.

Mrs. ROGERS. What effect does it have on the people of the country to have a law on our statute books and not have it enforced?

Miss RANKIN. I think the effect, and the most important effect, is that it simply says to the world what the people of the United States want. The fact that our Executive does not carry out the law, still does not affect the impression that other nations get. I think the importance of legislation in Congress is to express the will of the people so that the people of other countries can be sure what the people in the United States intend to do. All penologists say that it is the surety of the penalty rather than the severity that deters crime, and I think that would apply to war, also. If they are sure the American people will not go to war, other nations will not count on it.

Mr. BLOOM. Then you do not approve, Miss Rankin, of the Pittman bill?

MISS RANKIN. Not at all.

MR. BLOOM. The Thomas bill?

MISS RANKIN. No; I think that the effect of both bills is to choose enemies through legislation. I think our enemies should be chosen by an act of Congress.

MR. BLOOM. Are there any further questions?

MRS. ROGERS. You feel that the cash-and-carry plan would be pro-Japanese and pro-British because those countries have boats to carry?

MISS RANKIN. Yes.

MRS. ROGERS. Do I understand you to say you thought it just as well to let the cash-and-carry plan die a natural death and not reenact it?

MISS RANKIN. I think that under the present circumstances it would be better to let it die and go into a thorough study and a thorough change in the cash-and-carry policy. As I said at the beginning of my statement, there is no way to have an absolutely neutral position, and there is no way to get a perfect law, and under the circumstances I think that would be better, because I think that is more likely what we can get without too much delay.

MR. BLOOM. If there are no further questions, the committee thanks you, Miss Rankin, and appreciates your being here and the testimony you have given us. We will now hear Mr. Close.

#### STATEMENT OF UPTON CLOSE, VALHALLA, N. Y.

MR. CLOSE. Mr. Chairman, ladies, and gentlemen, I am simply speaking as an American whose father started in the State of Maine and helped to found the State of Washington, and who kept on going west. I have spent a great deal of my life in the Orient, and for the last 20 years acting as interpreter of the events there and in other parts of the world to my people here.

MR. JOHNSON. In any official capacity?

MR. CLOSE. In the capacity of newspaper man, also instructor, and during the World War I was active in the service of certain departments of our Government. I think my only value to you would be to give you sort of a hard-boiled newspaper correspondent's view of this whole neutrality legislation problem. I have been traveling all over the United States for the last few months. I suppose I have given 150 lectures on these things, debated a great many times with Congressman Hamilton Fish, so I think he is very generous to have arranged for me to come here today, because I have been decidedly on the opposite side. I think the public is so confused at present over the multiplicity of suggestions regarding neutrality legislation that they have gotten into practically a state of coma. I really do not think they care very much what Congress does right now.

MR. JOHNSON. Would you mind a question there? What is the reason, do you think, that people are indifferent about it?

MR. CLOSE. I think the feeling of the public is that events are going to take the question out of the realm of the theoretical and legislative, or that events are moving too fast for legislation to catch up, and whenever you start to consider any of these specific bills you get into so many technical difficulties in their application that it baffles the ordinary American. I know it baffles me, and it has been my life study.

Mr. JOHNSON. Your idea is that they want to wait until conditions crystallize and then pass the law?

Mr. CLOSE. Well, I should say they really feel that events are going to determine what happens, rather than the other way around.

Mrs. ROGERS. Do they feel that the so-called Neutrality Act has been rather a farce?

Mr. CLOSE. I believe they do, Mrs. Rogers. I think they decidedly do feel that so far, it has been useless. I will come to that in a moment.

It seems to me the reason for the puzzlement about the whole thing from a legislative angle may be that legislation has been an attempt to satisfy the ideals of several different conflicting idealists and several different conflicting groups, to strike a compromise that would please both, instead of dealing with reality. The result is that all groups have lost interest as a result. I am afraid we cannot legislate neutrality any more than we could legislate temperance. Neutrality is really a state of mind, an absence of emotion. When you start in to deal with specific things that determine American policy toward certain specific disputes and controversies, that is another thing. That is legislation that should be considered and made by Congress, but it should not be called neutrality legislation. The minute you start doing that, you are being decidedly nonneutral.

I have wondered whether the object of neutrality legislation was to keep us from exercising our weight in the society of nations, and if that is the object, it seems to me that Congress, in taking that position, would be acting more or less like a school ma'am to the American public, and I do not believe such an attempt will succeed. I do not think it ever has. If the American people want to express their feelings about the Japanese, or about Mr. Hitler, or any other development in the world, they are going to express it, and there is no act of Congress that can stop them. Furthermore, I think they are going to feel resentful at the attempt to squelch opportunities for that expression in a forcible way.

Conversely, I have wondered if the object of legislation would be to give us the means to express our feelings about certain great struggles going on in the world, and if that be so, then I should say that it has forgotten its purpose. It is not neutrality legislation from that moment, but should come under the head of specific acts of Congress or executive acts, as determined by the Constitution, to deter others or to take reprisals on others. I personally believe that we need such acts. I believe that we are going to be terribly outplayed in the world checker game if we do not have such action, but I believe that such action should by no means come under the head of neutrality legislation. That confuses the whole problem.

I just heard Miss Rankin speak of the legislation that she thinks would favor the British Empire, and it seems to me that on the other side, what she wants would greatly load the dice in favor of Germany and Japan, for instance. Whenever you try to avoid helping the British, you are helping somebody else, and perhaps to a greater degree, and that gets you out of the realm of neutrality legislation entirely.

Mrs. ROGERS. Do you feel that the President, in taking the steps that he has taken, singling out Hitler and Mussolini as aggressors—do you feel that that is unneutral?

Mr. CLOSE. Yes; that is not neutral at all, and I am decidedly in favor of that kind of nonneutrality, providing it is done frankly and for what it is. That policy is playing the international game, and we are going to come out pretty badly in the end if we do not learn how to play that game, too.

I have wondered sometimes if the object of neutrality legislation was not essentially in the realm of home politics, and, of course, if it is, as an American who spends a great deal of time outside of this country and deals in some manner with public opinion outside, I should very greatly deplore it.

Mr. JOHNSON. What do you mean by "home politics"?

Mr. CLOSE. Well, the attempt to discredit Mr. Roosevelt at the moment, or Mr. Roosevelt attempting, on the other side, to run away from Congress—either way. Of course, it seems to me that if you are afraid of your President, the only thing you can do is to get a new President, not tie his hands. I think that once the Chief Executive is installed in his office, any effort made to tie his hands in the normal field of his operations will simply discredit us and weaken our entire procedure in the international field.

Mr. JOHNSON. Let me ask you a question there. Did I understand from that statement that you feel for the sake of our policy abroad or for our influence abroad, there must be unity on our part?

Mr. CLOSE. I do feel, sir, that, for instance, such statements as you see here and there—"We would like to assure Mr. Hitler and Mr. Mussolini and the Japanese that Mr. Roosevelt is not speaking for the American people or the American Congress"—from the standpoint of a man who has anything to do with foreign opinion and attitude, that is most deplorable; and no matter what one's position is, whether it is extreme isolationist or whether it is extreme participationist, those things can do nothing but weaken our standing—our hand in the picture.

Mr. RICHARDS. Do you not think that if that is a weakness, it is a weakness in our form of government? You take, for instance, England or, you might say, France or any of the other so-called democracies. They go ahead and appoint a Premier. He goes ahead and enunciates a policy. Well, the Parliament can get rid of that particular man by a vote of confidence, you might say, or changing the form of government overnight. We cannot do that under our system of government.

Mr. CLOSE. That is certainly true. It is a weakness in our form of government, but I hope that we will not exploit that weakness any more than we can help. I hope we will do all we can in our foreign relations and conduct of them to cover up that weakness.

Mr. RICHARDS. Well, I say "if it is a weakness." I did not mean to infer that it was a weakness; but I say, if it is a weakness, it is a weakness in our democratic form of government when it comes to handling international affairs. Do you agree with that?

Mr. CLOSE. Yes; certainly.

Mr. SHANLEY. Mr. Close, is it not true that all of the States—yes, all of the countries in the world today know the structure of our Government and know, for example, that no matter what the President says, in order to implement his policy he must come to Congress? Now, assume that the President does take a definite stand; assume that it is necessary to implement that policy, do you mean to say

that there ought to be unity on the implementation of that, irrespective of our views?

Mr. CLOSE. I would not be dogmatic. I am just telling you the way the thing looks, perhaps, from the outside. Certainly there ought to be as much unity as possible—either side should give as much as possible in that respect. I doubt whether there is as much opportunity for preventing any President's ability to lead us into war situations as many people think. I am afraid that a false analogy may be drawn from Congress's repudiation of President Wilson's peace agreement. It is much easier—under our Constitution—for the President to lead us into a war situation than it is for him to force a peace treaty.

Mr. RICHARDS. Nevertheless, no matter what he does say out there, there must be some concordance in the House before there is implementation. So, unless there is a certain amount of criticism allowed in the House, we are not going—we are certainly not going to get the viewpoint of the House; because there is no man living today that does not realize that anybody placed in the position of the Chief Executive, with the tremendous volume of views that come in on him, he must get a picture that we cannot possibly get, a picture that I would not want to get as a legislator, because I think that out in front there he has got to be allowed a certain amount of emotion, you might almost say hysteria, but that does not say that when it comes to the calmer judgment of implementing that policy, that we should not have the right to change it, and the world should take notice of that fact, because they should take notice of our Constitution, and I am not one of those that believes that we betrayed Wilson or betrayed the world when we did not implement the pact, even though I was in accord with the League of Nations at that time.

Mr. CLOSE. I would not call it betrayal, but I would say it was very bad for American prestige abroad, and if we are going to live in the world and deal with situations outside of our own shores, and sometimes even inside them, the thing we need most of all, the most valuable asset in dealing with other nations, is prestige.

Mr. VORYS. You said that the failure—and as Mr. Shanley points out, it is a known failure—everybody knows that when an American President sounds off on something that has not been already affirmed by Congress, he is just talking to himself, and that gives stability to policies that have been affirmed and have been long settled, such as the Monroe Doctrine, and so forth, and it gives utter instability to any policy that a President may pursue, unless, eventually, it is backed by Congress. Can you give any examples of where that has weakened our prestige or embarrassed us in any way?

Mr. CLOSE. Well, I was going to suggest that we consider some examples, not exactly of what you said just now, but I had on the tip of my tongue such things as this: I have had Japanese high officials ask me whether the President's attitude on certain specific things could commit the United States. I know very well it could commit the United States. For instance, if the President had made demands following the sinking of the *Panay*, which the Japanese would have refused to accept, the United States would have been committed. There is a tremendous leeway there, and because Congress has such a close rein on the President when it comes to making formal treaties,

foreign nations, foreign governments are misled when they read that some element in Congress, or even all of Congress, apparently does not stand behind him on his executive acts.

However, this is something that I am just throwing out for your consideration. It is nothing that any of us can do anything about, except, perhaps, to try to avoid as much as possible the aspects of an internal dog fight over something that really concerns the welfare of the people at large.

Mr. BLOOM. Do you not believe that Japan, especially her high officials, as you say, is really acquainted with our constitutional form of Government and knows the power of the President and the power of the Congress of the United States?

Mr. CLOSE. Well, I have found, Mr. Bloom, that foreign officials, even high officials of the foreign governments, and particularly the press and the readers of the press in foreign countries, really know nothing of the Constitution of our Government. They know as little about it as we know about the relations between Herr Hitler and his Minister Goering; and so, when they see the President start something and Congress call him on it, to them it is something comical, a sign of great weakness over here. It is something they try to take advantage of, of course, and lately there has been a great deal of effort on the part of certain dictators and military men to bolster their people by assuring them that President Roosevelt is not being backed by his people. Now, that cannot help any American no matter what his position is.

Mr. SHANLEY. Under the monopoly of propaganda that they have, it seems there is very little that we can do about that situation except keep trying. There is no way of our getting any viewpoint to them. There is government control of the press in all those countries, and it is true even in the so-called democratic countries, that, practically, the foreign policy is determined by the government. In England, for example, I think the press there—if the Foreign Secretary says: "Now, gentlemen, I would rather not have this printed," it will not be printed. So that the average national abroad gets very little of the background of his government's foreign policy. How much less would they get of ours through their controlled press? Which is true of England and France as it is of the totalitarian state. So I am wondering how we will get any prestige over there.

Mr. JOHNSON. But the totalitarian states are glad to publish any criticisms of the President of this country that are made against anything that has been said against Germany. That is published, I suppose, with big headlines?

Mr. CLOSE. Certainly. Any criticism of the President of the United States from any legislative or official source in the United States is, of course, their "meat," naturally. It gives them the opening they want. That is not saying that the President should be allowed to run away with everything, but it is a thing that we ought to bear in mind.

Mr. JOHNSON. Have you been in Japan during the trouble over there?

Mr. CLOSE. I was there the first 2 years of it. Now, the President does need a lot of leeway, I feel, and so I think also feel most men who live in the sort of field that I do.

**Mr. BLOOM.** You are speaking of any President?

**Mr. CLOSE.** Yes; any President. Because we live in an age when all the former rules for international intercourse are wiped out. I heard Mr. Castle say that the general international rules—international law—I think he even used that phrase—should be the guide in international relations. Well, there are no such rules today. They have all been abolished, erased. Anyone who has his finger anywhere in the international pie has to play a sort of a blind game of poker with duces wild, and he has got to have considerable leeway. Of course, you can say, "Well, why should we be in the game?" As long as we have policies such as the open door in China we are forced into the game, and before we can really get out of that game and expect our President to act in the way that our extreme isolationists would like it would be the duty of Congress to repudiate such policies as the open door. I do not think that Congress feels that it should repudiate that policy. I do not know that the American people feel that Congress should. So there is necessity there of leeway—where we cannot get out of the picture.

The President cannot get out of it. He has to play the game along with these fellows, and he requires a degree of latitude to do so. It seems to me that in the last few days the press, at least, has been rather overloaded against the President's actions. I am no defender per se of the President, but I think we ought to bear in mind that it just may be possible that his policy will bring results. No one can say yet that his message of the last week end is a failure. It is very possible that it will come out yet, that that message forestalled some coup that was planned by the dictators over the week end. It may prove to have had great value. I feel myself, knowing the line-up pretty well, that the President's declaration has forestalled the Japanese joining a military agreement with Germany and Italy. That agreement was to have been signed on Sunday. That agreement has not been signed, and since the President spoke there has been very strong reaction against entering a full military alliance with Germany in certain quarters in Japan, and it may be that that was the chief thing that he hoped to accomplish. So it may yet come about that the people will be convinced that the President did prevent war, that he did keep us out of war, and if that happens to be true it will be a great feather in his cap. I think that needs a little consideration, too. It seems to me opinion has been loaded a little unfairly on the other side.

**Mr. BLOOM.** Has not the press of the country, in the majority, been rather favorable in their editorials to the message of the President last Saturday?

**Mr. CLOSE.** I would say the first reaction was rather favorable, and then there seems to have been sort of a growing skepticism and a "he is dragging us into war" talk gathering momentum.

**Mr. BLOOM.** You mean talk of war?

**Mr. CLOSE.** The talk that the President is dragging us into war.

**Mr. IZAO.** Do you not think that is due to his political enemies, figuring that they had better not let this one chance go by; that they might be able to capitalize a little there, and they undertake to sow dissension in the ranks of the party, and incidentally make a little more difficult success in 1940?



Mr. CLOSE. To state frankly, as a so-called expert on foreign affairs, but as one who wants to be a very good American, but who does not belong to any political party in this country because I have not been here long enough at one time to register and vote for the last few years, I feel that that is exactly what I am trying to say. Where the President, any President, no matter who he may be, of whatever party, needs to be made to feel that he must go along with Congress, that is all to the good, but where the criticism seems to be picaresque, seems to be solely for the purpose of capitalizing a political feud, I think it is most deplorable, and I believe that is what you have in mind.

Mrs. ROGERS. In view of the whole situation, what effect do you think it would have, for instance, if the conference should be held and no results came from the conference, and Germany and Italy decided to fight, do you think we would be more apt to be drawn into the conflict because we had held a conference? I know you have made a study of the situation, and I would like to know your opinion.

Mr. CLOSE. That is a postulate in the future, but I would be inclined to think that if Germany and Italy laid down requests that seemed to the mass of the American people reasonable, and then the conference broke up, it would relieve millions of us Americans of the feeling that we have now—that we owe some sort of a debt of virtue at least to stand by England and France against Germany. At least it would clear the air in that respect; and if the turn of the conference was the other way—if everything that seemed within reason was offered to these men and still they insisted upon resorting to violent methods, it would clarify our stand and our activities in that direction.

Mrs. ROGERS. We would be more apt to go into war then?

Mr. CLOSE. I think we would feel, and rightly so, that we had a right to stand behind the people who did want to talk reason—to whatever extent we wanted to stand behind them. That is to be decided, of course, separately. I do not think that comes under neutrality—whether we want to stand behind them in supplying goods, or whether we want to stand behind them with the Navy or with the Army and Navy. However, I cannot envision any possible need for another American expeditionary force under any circumstances.

Mr. JOHNSON. I would like to ask you, referring again to the statement you made with reference to the President's message last Saturday, in which you said it might have had some effect on Japan, Rome, and Berlin in the military agreement, was that with reference to Japan's signing a military agreement?

Mr. CLOSE. Yes, sir.

Mr. JOHNSON. In other words, the understanding was that Japan was to sign the agreement last Sunday—a military agreement with Germany and Italy?

Mr. CLOSE. Yes, sir.

Mr. JOHNSON. And the President's message came out on Saturday and Japan has, up to this time, failed to sign the agreement, and you think, possibly, that message might have had that effect?

Mr. CLOSE. Yes; that is my interpretation of the latest news.

Mr. JOHNSON. That is what I wanted to be sure about.

Mr. SHANLEY. Would you not say, irrespective of what the results of the conference may be, the conference in and by itself, getting all

these rulers together and getting their cards on the table, would be more provocative of good than anything else we could do today.

Everything else is in the shadow line. We do not know what is happening, except what we get through a propaganda press, so no one can object to the conference at this time. Some of us may think it is a little late, but even though the conference did give us an opportunity to decide the aggressor, the mere fact that we have that opportunity would probably be worth while. Is that the real situation?

Mr. CLOSE. Certainly, sir. Any kind of fight over a long, green table would be better than a fight on the battlefield.

Mr. JOHNSON. I hope you will go into the 1920 naval conference and bring out the position of Japan. I think you can do that.

Mr. CLOSE. I will be glad to go into that fully if you wish. It will take up a lot of your time, I am afraid.

I want to speak a little further about the danger of dwelling on the parallel of 1914-18. I see so much of that in the press, particularly the opposition to the administration press, and I am afraid a good many who use that parallel in arguments either one way or the other may be misled.

Let us remember that in 1914 there was no mistrust in this country about Germany. There was no hatred basically against Germany when that war broke out. We admired Germany in this country. Most of our professional and artistic and scientific groups considered Germany the most highly civilized country in the world. I think Germany stood higher with us than England in that respect. We loved England, but we did admire the Germans, and today we come to the verge of what may be war again in a totally different national spirit. Whereas, in 1914, the great antagonists on the other side—England on one side and Germany on the other—were both nations pledged to the capitalistic system, individual initiative, and they were both pledged to such basic things as religious liberty, economic freedom, religious and racial equality, the Bill of Rights; and, whereas both were following the form of representative government, today, well in advance of the crisis you already have one side having declared war, bitter and ruthless, and relentless war on every one of those things which means so much to every American, and the other side in a rather weak-kneed fashion, still trying to preserve those things.

It is all right to say that in 1914, or 1916 even, the American public should have been neutral—and you remember Woodrow Wilson's definition "neutral in thought and word as well as in act," but it is simply fantastic to suggest that the American public could be in thought and word neutral in the situation in the world today. The people of our Nation do not want war. That is something else. They certainly do not want another A. E. F. That is still something else again, but there is a totally different public attitude toward the schism in Europe today than there was on the verge of the first World War, and I think we should be careful about that when we draw parallels.

Mr. JOHNSON. What is the difference?

Mr. CLOSE. Well, in 1914 it was a fight between two imperialistic groups for the loot of empire. I think we understood the motives of empire grabbing, because as a nation we had done plenty of it ourselves, but we had sort of lived through that period of our history

and were not interested in that particular motive any longer, very much as a man lives through his woman-chasing days, and that is not a motive any longer, but he still understands it when he sees it going on. But neither side challenged those basic principles of civilized life on which America builds her faith, her culture, her very existence. Today is a totally different picture. One side is trying to rise to imperialistic aggrandizement by challenging, by the very tactics of challenging, all of those things that mean more than life and more than riches to every American worth calling that name.

Mr. JOHNSON. Not only challenging but going out and taking.

Mr. CLOSE. Yes; and secretly conducting warfare against them in our own country. I cannot sympathize much with people who say that it is a terrible thing for us to suggest to Mr. Hitler's long-suffering German people that they might get rid of the incubus. I do not see anything so terrible for anybody, from the President down, to suggest a thing like that when the agents of Mr. Hitler are right here behind us, among us, working for the overthrow of our complete system, not merely our President but our whole system, which is certainly much dearer to us than any one man is.

Mr. VORYS. Just at that point, has Mr. Hitler ever openly invited the American people to throw off their form of government? That is, he has not openly, as far as I know, but he has done it under the cloak of secrecy and at least pretends that he is not doing it.

Mr. CLOSE. Well, he has done it indirectly, but I doubt if he even bothers to make a pretense about not doing it.

Mr. VORYS. But do you know of any pronouncement he has ever made where he has encouraged the American people to throw off their form of government?

Mr. CLOSE. Well, he has made repeated pronouncements ridiculing and condemning democracy and the democratic system, of course. I think one time he used the expression "the bleating sheep of democracy." I have forgotten the whole phrase, but there is no end to the phrases he has used in public denouncing and ridiculing our whole idealism.

The public, I think, in this country, under its present attitude, its present feeling, does want to be able to supply with any needed equipment whatever side, whoever will make a stand against the apostles of brute force. I think that can be said right out. I doubt if you will find very many men anywhere in this country who will tell you that they would like to have this country keep arms and essential supplies out of the hands of anybody who will stand up and oppose the men who operate on the philosophy of brute force; and I think that any neutrality legislation that would oppose that general feeling of the American public, which has been proven by the Gallup poll and other polls, would turn out to be in the category of legislation that would just never be applied.

Mr. CHIPERFIELD. Then you would be against the present Neutrality Act, would you, and believe that it should be repealed?

Mr. CLOSE. Yes, sir; I am against all neutrality acts. I am coming to that.

Mr. CHIPERFIELD. What rules would govern us, then? You say that the rules of international law are gone by the board. What is there left for us?

Mr. CLOSE. There are no rules. You have got to operate from day to day the best you can in the light of your own interest.

Mr. CHIPERFIELD. Just try to meet the emergency when it arises?

Mr. CLOSE. Yes, sir; one emergency after the other. That is the only possible thing that I can see in the world today.

Mr. BLOOM. How would you meet that emergency? In what way?

Mr. CLOSE. Well, I think it will come out in my further remarks, Mr. Chairman, if I may proceed.

Mr. BLOOM. Certainly; proceed.

Mr. CLOSE. I think that this desire of the American people today to express themselves on this issue has nothing to do with any American desire to stand behind the British Empire as such, or to protect boundaries as such, but it has come down to the very practical issue that there are certain forces determined to go on and on, taking over the world by bluff, if possible, by force where they can use that force in a cowardly but safe way to themselves; and that, all theoretical considerations aside, I think the American people would like to see as much of a stand in the world as possible made against that push, and would like to see America give as much aid as possible to that stand. This does not mean that the American people want to rush into war. I do not think they are convinced that they need to take any great risk of war as yet, or for a considerable time to come, by expressing their feelings. I am afraid that neutrality acts, no matter what, are going to operate so as to tend to deprive the American people of what they feel is a just expression that they want to make on the situation; and of course, if laws do this, they will just be ineffective, and that kind of legislation had better not be passed.

I know how many of our peace lovers feel. They feel that, "Well, there is a brawl going on downstairs," and they are upstairs in their parlor, and this brawl is getting more and more noisome, and now and then a brickbat comes through the window. They feel that they are going to lose their tempers and rush down there and get into it if they do not watch out, and so they are sort of running around trying to find somebody who will tie their hands together, put a rope around their hands, so as to deter them from getting into the brawl when they get so mad they cannot stay out of it any longer.

Mr. BLOOM. What will they do with their mouths?

Mr. CLOSE. They will just keep on talking, Congressman Bloom, and there is no way to gag the American people, even though you do tie their hands together. And to me that seems rather a ridiculous way to approach a great world emergency. Of course, supporters of the Pittman bill may say that that is what the "cash and carry" act is for, to give Americans an opportunity to express themselves in their wish to aid those who may stand up against an aggressor. Well, if that is what it is for, then, per se, it is not a neutrality act. It should not be carried under that heading. Rather it should be called, perhaps, a "throw our weight" act.

Mr. BLOOM. He calls it a "peace" act.

Mr. CLOSE. A peace act? Well, it might be a "looking toward peace" act, but it is not neutrality.

Mr. VORYS. Just at that point, do you know of anybody who is now claiming that neutrality legislation can be neutral in the sense of being impartial between possible foreign opponents?

Mr. CLOSE. I do not hear very much said about impartiality, but I hear a great deal said that legislation is needed to keep us out of war, and I think that that is equally fallacious.

Taking it up as a peace act, or, rather, as I expressed it more explicitly, a "throw our weight" act, it seems to me that the Pittman Act, coming down to that act specifically is a confused and sort of a double-barreled act, one barrel shooting in either direction. On the one side it is designed so that we can come to the aid of Britain with munitions; on the other side it gives Japan free access to those same munitions and so I have tried, for my own sake, to understand the motives that may lie behind that act. Let me see if I have been able to get it straight—sort of talking to myself here. Why do we want to sell munitions under a cash-and-carry provision or any other provision? Are we thinking of selling munitions for the sake of profits on the munitions? I heard one of the defenders of the act say that if we did not give munition makers that outlet they would make trouble and force some sort of outlet for their munitions. Well, I would hate to have it said that we are so afraid that our munitions makers cannot be kept in hand at any time in this country, that we have got to pander to them in that way. If it is not for the sake of profit from the munitions, what is it for? Is it for the sake of policy if not for profit? It must be one or the other, otherwise it is just a confused picture without any particular method either way. If it is for the sake of policy, for helping one side against another, would it not be very much better to control munitions and other sales openly as a policy, by such a measure, for instance, as Mr. Coffey of Washington suggested this morning, or such a measure as Mr. Vory suggested? It seems to me that "cash and carry" is the very essence of the attempt to hide policy, perhaps, under the guise of trade, or to hide trade in munitions under the guise of policy, and it seems to me it is a failure both ways. Those are rather harsh words, and I hope that the believers in that bill will not hold it against me, but I am just talking as a newspaperman, trying to analyze this thing.

This brings me to a closer study of the question of whether general neutrality legislation has worked thus far—and really, when you come to analyze the present neutrality act it seems to me that the only case where it has worked has been in the case of Spain, and there it worked because it was applied in a case where it really was not intended to apply originally, a case that was not envisioned originally, and it worked because it was applied by a specific resolution of Congress, and it seems to me that that is more or less of a lesson on how such legislation can be applied effectively. Namely; by specific application by Congress in every specific case. I do not see how any general application can be made.

The other place where it should have applied was Ethiopia. Well, what of it? Ethiopia had no money here to buy arms and ammunition anyhow, and munitions sales were not a problem there, and if she had had, there was nobody to carry it to her, nobody could have gotten to her with it. So that our neutrality did not do anything in the Ethiopian situation except, perhaps, morally—or immorally—encourage Italy.

In the case of China and Japan, the existing act has not even been applied, and I think the President has been astonishingly safe

in ignoring an act of Congress because he knew that he had the sentiment of the American people with him in ignoring it. All he had to do was to tell the American people at large that the application of that neutrality act would help Japan against China, and the American people would have said: "All right, F. D. R. Forget it!" Now there you have got a striking example of how ineffectual general neutrality legislation is when it runs counter to the sentiments of the people.

Mr. JOHNSON. There was a legalistic ground on which the President could stand with reference to the war in China by Japan, in that, war not having been declared, it was a *de facto* war, but not what lawyers would call a "*de jure*" war.

Mr. CLOSE. Mr. Congressman, I think the average American thinks that legalistic ground is a joke.

Mr. JOHNSON. But is it not true that because the sentiment of the people was so overwhelmingly against Japan, they were willing to accept a legalistic ground on which the act was not applied, and therefore no complaint is made?

Mr. CLOSE. Yes; they would have accepted any grounds or no grounds at all.

Mrs. ROGERS. What about Italy and Albania? Was there not some resistance on the part of Albania?

Mr. CLOSE. Well, for a day or so, perhaps, but in a few minutes it was all over. There was no question of the application of the neutrality act that could arise there. The only place where it has been a factor in the picture has been in Spain, and there it was applied by specific resolution of Congress. I am not so sure that I feel that the application was the best thing in regard to Spain, but it did seem to be the general will of the American people, and anyhow, it had effect, because it was a specific move applied to a specific case, and in all my experience in these disputes around the world, visiting them and writing on them, I cannot see how they can be covered by any general act.

Mr. JOHNSON. You say you have traveled over the United States considerably within recent months and spoken many times upon this question. What is your opinion with reference to the attitude of the American people with reference to the failure of the President to apply the neutrality act as against China and Japan? What is the sentiment of the people? Do they approve or condemn the President for failing to invoke the Neutrality Act in the Chinese-Japanese conflict?

Mr. CLOSE. Well, I should say the popular attitude is a sort of mischievous endorsement. They sort of smile at the technicality.

Mr. JOHNSON. Do they approve or disapprove?

Mr. CLOSE. I should say I think they approve.

Mr. JOHNSON. Whether with mischief or without mischief?

Mr. CLOSE. They approve because they have been told that if the act were applied it would operate against China and in favor of Japan.

Mr. CHIPERFIELD. May I ask, Mr. Close, how do your audiences respond to your suggestion that we do away with the Neutrality Act?

Mr. CLOSE. Well, my experience with the audiences in the last few weeks is that they are exceedingly apathetic as to what happens in regard to neutrality legislation. They are baffled and puzzled about

it. They ask me to try to explain it to them. They ask me to try to tell them how they ought to feel about it, which is a sure sign that they have no feelings of their own, because they would never bother to do that if they had.

MR. JOHNSON. What sections of the country have you been in, in recent weeks?

MR. CLOSE. All the way from the Pacific Coast to Maine and down to Florida.

MR. BLOOM. Have you been to Texas?

MR. CLOSE. I have been in Texas in the last 3 months.

MR. JOHNSON. They are very sound thinkers down there. [Laughter.]

MR. CLOSE. They are rather provincial down there, it seems, but perhaps not more so than elsewhere.

Now, I was thinking of what might come about if we did apply this cash-and-carry neutrality act; suppose it became law—thinking of some potential conditions that might arise. Suppose there was a revolution in France similar to the one in Spain; it is not at all impossible—it looked very likely a few months back—Fascist agents working in collaboration with Fascist sympathizers in France, trying to duplicate what happened in Spain. Suppose that should burst out into open, bloody, civil war; how would we apply our neutrality act? It gives us no guidance for a situation like that, does it? Certainly American feeling would be inclined to support defenders of French democracy against Fascist attack from within, if that is the way the lines should be drawn, but what guidance would we have from such an act as the Pittman Act? Or, suppose, as many students of foreign affairs think, the situation may eventually shape up into a Russo-German agreement, or even alliance? Where would you get any guidance from a general neutrality act such as that proposed? Or think of the happiest thing I can think of, that there may be a revolution in Germany itself, what guidance for a situation like that would we get from the Neutrality Act?

MR. BLOOM. I do not think you will need to worry much about the guidance.

MR. VORYS. Do you not think that we might possibly change the Neutrality Act to meet some of those situations?

MR. CLOSE. Why then have it and change it? Why not go along and make our acts as we need them?

MR. VORYS. Our problem now is to either get up the best legislation we can or else have none for the next 6 months, is it not?

MR. CLOSE. I prefer to have none until we meet the specific situation.

MR. VORYS. Just one more thought. The present Neutrality Act, or we will say the Pittman bill, would be your idea of a pretty good policy for the United States temporarily toward Europe, would it not? That is, it would favor the so-called democracies until they start making revolutions and one thing and another?

MR. CLOSE. Yes; but I do not see that that is any reason why we cannot exert that same policy without committing ourselves by an act which at the same time is so bad on the Pacific that we have to do something special about it there.

If we repealed all neutrality legislation, it would be simply understood that to the extent to which the American citizen is against

aggression, to that extent we would help anybody who is fighting against aggression.

Mr. JOHNSON. As I understand you, one of your objections to the Pittman bill is that while it would help England and France in Europe, it would hurt China and help Japan in the Orient? Is that the idea?

Mr. CLOSE. Yes. Certainly it would work against what we conceive to be our policy in the Pacific, which is the policy of discouraging Japan's assault upon China and upon all of our rights.

Mr. JOHNSON. Your view, like that of a great many others, in reference to what we call "neutrality legislation," that the effect it has on the other countries determines the kind of law you would like to have?

Mr. CLOSE. I say one reason why we cannot have any general neutrality law is because whatever you have will have some such unneutral effect.

Mr. JOHNSON. And your idea is that as long as people are not neutral in mind, the law will not make them neutral?

Mr. CLOSE. Certainly, that's my idea.

Mr. BLOOM. Well, there are certain sections of the Neutrality Act that you believe should remain on the statute books, do you not?

Mr. CLOSE. Those that affect matters within our economy; yes, sir.

Mr. BLOOM. Section 1 you would repeal?

Mr. CLOSE. As I recall section 1, I believe so.

Mr. BLOOM. That is the "arms and ammunitions of war."

Mr. CLOSE. Yes; certainly I would repeal that, because at the present time the way it reads is decidedly an encouragement to aggressors.

Mr. BLOOM. Section 2—that expires on May 1.

Mr. CLOSE. Yes. Some of the other features of the Pittman Act in regard to our own internal economy strike me as being exceedingly drastic and perhaps impossible. It looks to me like a death sentence on American shipping right off the bat. I hardly see how Congress can sentence our budding merchant marine, on which it has spent so much money, which it is promoting so earnestly at the present time—just sentence it to death offhand that way. Again, suppose we did order all our ships to tie up, not go anywhere there was a war or into an area where anybody had a submarine operating, which would mean the entire seven seas, and then suppose that Japan still took enormous supplies from the Pacific coast, which might be relatively safe, and carried them over to Germany, say, or suppose our ships went down to Panama or to other Latin American countries and registered under other flags, of various Latin-American nations, and then started carrying munitions and arms under "cash and carry," flying the flags of various South American nations, as many United States ships actually do now; then suppose those ships were sunk, involving the flags of those Latin-American nations; suppose ever reprisals were taken upon those Latin-American nations for letting these ships use their flag—it seems to me that there are all manner of possibilities involved there. We are just sort of opening the way into a labyrinth of involvement, instead of getting out of involvement.

Mr. JOHNSON. Did you hear Commander Van Antwerp, of the Veterans of Foreign Wars in his testimony before the committee?



Mr. CLOSE. No, sir.

Mr. JOHNSON. He suggested a modification of the Pittman bill as applied to commodities other than war materials, with reference to American ships. The Pittman bill, as I understand it, prohibits American ships from carrying goods to belligerents, and adopts a cash-and-carry plan with reference to commodities for vessels of other nations. His suggestion was, as I recall, that that provision prohibiting American ships from carrying goods be removed, and that they be so permitted to carry, and that there be created some kind of a mutual insurance incorporation, something like war-risk insurance—something like that—so that they could participate. What have you to say with reference to that suggestion?

Mr. CLOSE. Well, it is an attempt to get out of a difficulty after we have gotten into it. Even there I can see complications ahead. If the enemy submarines are successful at all, the loss would be so heavy that no insurance company, even the Government-insured subsidy, would be able to carry the risk, for one thing.

Mr. JOHNSON. On every bill that has been introduced, all neutrality legislation, the proponents and opponents of the bills have, in analyzing them, given as one reason why they should not be enacted, that "this bill will hurt that country, and this bill will help the other country." Is it not true that if we are to adopt a neutrality policy and have neutrality legislation, we must disregard the effect that it is going to have on other countries, and simply adopt the policy that we will do the wisest thing for our country, regardless of the effect it will have on other countries? Is not that the only safe criterion by which we can be guided?

Mr. CLOSE. Except in the effects on other countries which may in turn affect us. There may be a terrific rebound on us, so that we are really cutting off our own nose. Certainly, as long as we maintain that there is such a policy as the open door, as long as we are serving notice upon Japan daily about interfering with our trade in the Orient; as long as the tactical situation exists that we can live in a world in which the seven seas are dominated by the British Navy, but we are not at all sure that we could live in a world in which the seven seas are dominated by Hitler—as long as all those conditions exist there is always the rebound on us, and it is in the light of the effect upon us that I am speaking.

Another phrase or item in the Pittman Act, it seems to me, is interesting in its possible implications. It says, in effect, "We will let the boats sail but we will not let them arm." That is one of the suggested arrangements, I believe. Can you imagine the effect on American psychology of sending out ships, letting them go out, officered and manned with American seamen, to meet the menace of being sunk without trace, and then saying to them officially, "We are not giving you so much as a chance to fight for your lives. You cannot carry a gun. Sail out there and let them slaughter you." I do not think that will appeal to the average American. We want to give everybody a fighting chance for his life, even if he is just a poor American sailor on an American ship.

Mr. VOYTS. Just at that point, what would you think about the possibility of letting American ships sail at their peril—that is, if there were those who disagreed with you and would say, "We are

not going to attempt to defend our ships in case of war, but we are going to let them take their own chances"—what would you think of writing into this law that they would proceed at peril, in that they might arm themselves?

Mr. CLOSE. Well, I do not see how you could prevent them from arming themselves and trying to protect their lives. Any man has a right to do that. But, of course, if you allow them to arm themselves, flying under the American flag, and they see a German submarine snooping around, and the American ship shoots first, then you have got everything you thought you were going to avoid.

Mr. SHANLEY. Once you arm a merchant ship you have got then a warship?

Mr. CLOSE. Yes, sir.

Mr. SHANLEY. There is no gunner under those facts who when he sees a submarine is not going to do what they did during the war, just take a shot at them or ram them, and the result is we have got chaos on the sea.

Mr. CLOSE. Yes.

Mr. SHANLEY. And if they are not armed, they still have got international law to protect them. You have got to go back to some basic law, because even in your philosophy or ideology—and I am not going to take that up now, because you have intimated two or three times that there is no international law, but I am thinking of the Mexican situation, of that specific instance where they expropriated our lands. Well, obviously, we had to go to international law to get satisfaction. International law said they had the right to take those lands provided they made prompt and speedy repayment. Now, if there was no international law, we would either have to take specific action by Congress or depend upon the Executive to make a gentleman's agreement, or consider it an act of war. So must you not say that there is some international law? Even if we wipe off this statute and all statutes, we still have an accumulation of two or three hundred years of precedents which have worked—have not worked when we said it was our duty to police the world and our duty to find points of irritation and decide that we are going to take sides, but they have worked when we decided to be really neutral.

Mr. CLOSE. Well, we can work them so far as putting ourselves under them. We can work them so far as we have the force and wish to exert the force to compel other people to come under them. That is the only way they work.

Mr. SHANLEY. But that does not mean that wherever there are irritants in the world today we have got to go there and that Congress has got to decide on the merits of the case. War might break out in India tomorrow. Mahatma Gandhi may decide to overthrow British rule.

Mr. JOHNSON. Was not a more accurate statement of what you meant to convey that the breach in the nonobservance of international law made international law uncertain? Was not that what you meant rather than to deny the existence of international law?

Mr. CLOSE. Well, yes, exactly. It exists for us. It does not exist for Mr. Hitler. It does not exist for Mr. Mussolini. It does not exist for the Japanese at present.

Mr. RICHARDS. And, as a matter of fact, it does not exist for any power that is engaged in a major war, unless it can be accepted as for the benefit of that power? Is not that correct?

Mr. CLOSE. I am afraid that is true.

Mr. JOHNSON. In time of war, international law, like all law, is abrogated anyway, is it not? That is, so much so, that if the nation has the power to abrogate and they think it is necessary to abrogate, they will do so?

Mr. BLOOM. Suspend?

Mr. CLOSE. I think there may be a little distinction there. I should say, for instance, that Germany suspended international law at the time of her submarine blockade, but I should say that the present totalitarian chiefs have abrogated international law. I think there is a distinction one should make there.

Mr. JOHNSON. I think that is true. I probably did not use the right word.

Mr. CLOSE. anyhow, this whole matter of our shipping cash and carry on our ships, or anything else, finally comes to the same ultimate difficulty, that we get to the point where, after beginning to supply war goods and getting our industry on a war basis to some extent, certainly, the money runs out or the shipping is stopped by very efficient submarine warfare—one way or the other the outlet for our goods is stopped, and we face an economic crisis in the United States, inside the United States, which tends to carry us the same way it carried us before, and I do not see how the Pittman bill, or any other neutrality act, can stop such a trend.

So it seems to me that the cash-and-carry idea is an apparently brilliant idea; it is the sort of thing that may flash in our eyes and blind us to the real unworkability of general neutrality legislation of any kind. All suggested neutrality laws simply do not fit in with American policy and declaration. They are all based on the assumption that we are fundamentally isolationists, and, practically speaking, we are not. There is nothing isolationist about the open-door policy. Not at all. There is nothing isolationist, really, about the Monroe Doctrine. So, you cannot fit a hat to a head that is several sizes too big for it.

Mr. JOHNSON. Is it not true—do you not find it so in your contacts with people—that the popular opinion with reference to neutrality is that it is the synonym of peace and the prevention of war? Is not that the way they interpret the word “neutrality” as a rule? Do they not regard neutrality as almost a synonym of peace? It is a wish to prevent war, and that being true. I will ask the questions both together; that being true, would not the public generally interpret an outright repeal of the neutrality law as a declaration by Congress that they were not in favor of peace and that they were for war?

Mr. CLOSE. It might be so; yes, sir. It might be very well to accompany such a possible repeal by a resolution or statement on the part of Congress that would remove such a misapprehension.

Mr. BLOOM. Well, you said retain certain parts, certain sections, of the neutrality law, of the present act, as would give us the opportunity of continuing those things. It would be up to us for our nationals to decide.

Mr. CLOSE. Yes; certainly.

Mr. BLOOM. So we would still have a neutrality act, but not with the cash and carry and not with the prohibitions in it.

Mr. CLOSE. It is these general rules laid down in advance to apply to all situations that may arise that I think are unworkable.

I am afraid I am taking up too much of your time. I was going to conclude by giving you some personal incidents of how American neutrality, American isolation—whatever you want to call it—has affected events in the Far East. I do not know whether I should take your time for very much of that or not.

Mr. JOHNSON. I think we would like to have it.

Mr. CLOSE. I will make it as brief as I can. I will skip over some of the earlier ones.

Take the Manchurian affair in 1931. Before the Japanese proceeded with that they made a most careful study of sentiment in the United States through agents; they canvassed a great number of Members of Congress. They carefully read congressional speeches and declarations and decided that the sentiment in America was so decidedly isolationist that, no matter how flagrantly they might violate the Nine Power Pact and the other war conference pacts, even the Kellogg-Briand Pact included, there would be no danger of any reaction from the United States. Now, Japan moved very cautiously. I was asked that summer in Japan preceding the September 1931 leap upon Manchuria, I was asked a hundred times at least by fairly highly placed Japanese officials and military officers "how isolationist is the sentiment in America now? How interested are people in Missouri in what might happen in the Pacific?" Japanese army men made a most careful canvas of that, because at that time the Japanese war machine was actually getting, I should say, 80 percent, roughly, of its finished military supplies from this country. In other words, Japan, during all of her great period of military adventuring, has been utilizing the industry of the United States as part of her forces. Of course, everyone knows that nowadays the armed forces of a nation consist only in part of the soldiers out on the front. It consists even more in the factories behind those soldiers, and in the case of Japan in 1931, 80 percent of those factories were in the United States of America, a situation which the Japanese themselves regarded as very bad and have done their very best to overcome. With their best efforts in the 8 years since they have only been able to reduce that percentage to something like 50 percent.

And American industry is still half of Japan's "behind the front" force.

When the actual violation came, on September 16, I think, 1931, interestingly enough it was conducted under the smoke screen of Colonel Lindbergh and Anne Lindbergh's visit to Japan, a visit that I am convinced was arranged through Mr. Jerome Green's intercession by certain highly placed Japanese for the express purpose of erecting a smoke screen behind which they could plan the Manchurian coup.

We newspaper men in Japan got instructions from our editors here that the Colonel and his wife were coming to Japan, and that we were to use all of our allowed space, or cableage—we are limited heavily because the cost of cableage is so great—to use all of our

cableage on the doings of the Colonel and Anne, in Japan, and there was nothing left over for politics.

Behind the screen of that visit and its publicity and the preoccupation of the American Ambassador in Tokyo with the visitors, the coup was carried out.

Mr. JOHNSON. Pardon me. I want to get clearly understandable; who is this person that you said arranged for the visit of Colonel Lindbergh?

Mr. CLOSE. Mr. Jerome Green.

Mr. JOHNSON. Who is he?

Mr. CLOSE. He was the intermediary through whom it was arranged. He was born in Japan and he was associated for many years with the Rockefeller interests, particularly the philanthropic and medical interests. He was head of the Rockefeller Medical Foundation in New York.

Mr. JOHNSON. Do you mean that he arranged for this visit of Colonel and Mrs. Lindbergh at that time for the purpose of what you call creating a smoke screen?

Mr. CLOSE. No; he was the intermediary used to arrange for the visit. I believe the visit was arranged by the Japanese authorities, through him.

Mr. JOHNSON. They got him to arrange for the visit so that while he was there then they could have this coup, is that correct?

Mr. CLOSE. That is my belief.

Mr. JOHNSON. He had no knowledge—you don't charge that?

Mr. CLOSE. He thought it would be a grand thing to bring them over there, certainly.

For instance, one day, just after I, at the request of the mayor of Tokyo, helped to arrange the Lindberghs' reception in Hibiya Park—right after that was over, I went up to the American Embassy and I found the chief secretary there, the American Ambassador was up in the Japanese Alps arranging for a golf game with Colonel Lindbergh, I believe, and I spoke to Mr. Neville in the Embassy about the headlines in the Japanese papers that day; they were in regard to a large number of transports that had left Osaka with troops and material for Manchuria.

Mr. JOHNSON. Was that the beginning of the movement?

Mr. CLOSE. Just a few days before the coup took place, and Mr. Neville indicated that he had no time to give to that situation. He read the Japanese papers; he was the only man, I think, in the embassy at the time who was really fluent in Japanese, a man who had done the work of the embassy for years, while political appointees, of course, went over his head and took the honors. He showed me stacks of little billets-doux, scented in different scents, and in different colors, stacked on his table; he had been ordered, in order that things should be done well and meticulously—and he was the only man in the embassy who could be relied upon to get all of the polite words in Japanese correctly—he had been ordered to personally answer the letters of hundreds of Japanese who had sent fans and obis and swords, and little gifts like that to the Lindberghs, and he had no time for this crisis that was brewing up.

That will show you how other governments watch us and utilize anything that they can in our set-up.

After the Manchurian coup, it seems to me that we acted as if our interests in the Pacific were dependent upon British interests. Colonel Stimson sent his note of protest; he expected the British to send a note, and they did not, and I think that they had been warned in advance, and I know that the Russians were warned in advance, and it was the feeling——

Mr. JOHNSON. By "warned in advance" you mean had been told what was going to happen?

Mr. CLOSE. Yes: on that night, in one night the Japanese carefully shot to pieces 18 Chinese garrisons, and the Russians, I have reason to believe, were told just when it would happen, a few days in advance, and I think probably the British, Downing Street, had some idea it was coming, but I think that our State Department had none, and Colonel Stimson sent his note, but it was the feeling of President Hoover, as you know, that if the British did nothing, we should do nothing.

Mr. JOHNSON. Before you get away from the Russian notification and British notification, I can understand what Britain's attitude might have been on account of their treaty and close relationship with Japan, but why was Russia acquiescing, and why did they not deal with it? Was there any response from them to this invasion of Manchuria?

Mr. CLOSE. At that time, I think Russia was physically unable to combat—I think Russian forces were too ill-supplied in that part of the world. There was only a single-track railroad at that time, and the Russians could not have done anything effective to resist the Japanese seizure, but the Japanese did not want to get into an unplanned war with Russia, so they notified them so that they would not go off their heads when the shooting started.

Mr. BLOOM. Did they ignore the United States completely?

Mr. CLOSE. I am quite positive that the thing was an absolute surprise to our embassy in Tokyo and to our State Department and in fact Mr. Stimson tells us so in his book.

What I am getting at was that we took the attitude that if the British did nothing, it did not concern us. We acted as if our interest in that part of the world were dependent upon the British interests.

Now, of course, it seems to me that that is a very basic fallacy in all of our diplomacy. The contrary is true. As British interests decrease in that part of the world, our interests inevitably increase. They are not dependent upon British interests, or the health of British interests, and you had that proved during the World War. Before the World War, Shanghai was a British town, and it observed English office hours, which was almost no hours at all, with 2 hours out in the afternoon for the races.

At the end of that World War, due to British preoccupation in other places, Shanghai became an American town, and to the great disgust of businessmen in Shanghai, American business hours, and American skyscrapers, were going up all around Shanghai, and two Americans were found on the municipal council for the first time in history.

As British interests recede in that part of the world, American trade interests naturally grow.

Mr. JOHNSON. What in your judgment was the reason for Britain's acquiescence in the acquisition of Manchuria?

Mr. CLOSE. I have only my own theory.

Mr. JOHNSON. Of course, I understand.

Mr. CLOSE. And that theory—or should I go back and say that at the time when Britain was persuaded to cancel or abrogate her alliance, a military alliance with Japan, in 1922, at the Washington Conference, there was a group, an element of English financiers who highly deplored that action, who actually sent representatives to Japan to explain to the Japanese that they were not in favor of their nation's backing American policy in the Pacific as against Japanese policy, and they were quite frank about the reasons.

They said, "Of course, before the war, the field was ours, but since the war there is no chance of our ever being the preponderant force out here. It will be either American or Japanese. Now, what percentage is there for us in backing American influence out here? That simply means that the development of this great area will fall into the hands of American capital and trade, and we don't get a look-in. It is much better for us to back you Japanese. You have the will to go ahead and build an empire, but you don't have the money. You borrow our money, and we will get at least a high interest."

Mr. JOHNSON. It was to placate Japan for terminating the military agreement with them?

Mr. CLOSE. Yes; and pave the way for British investment through Japanese control.

Mr. RICHARDS. Did not the Japanese give the British assurances then that they had no idea of going into southern China at the time?

Mr. CLOSE. Yes; the British were fooled on that, just as they were fooled on Hitler's going into Czechoslovakia. I think probably Mr. Hitler thought if the Japanese could play Downing Street for a sucker, why couldn't he.

What I am trying to do is point out the conflict between natural American growth, as expressed, perhaps, in the open door in China, and the future of America in the Pacific between American policies, that seem to spring naturally out of that trend of American growth, and the isolationist position that seems to be the foundation of proposed neutrality measures.

I am not defending this tendency of American growth. Maybe it should be cut off entirely; but until it has been cut off I do not see what consistency there can be in neutrality laws.

Mr. RICHARDS. What in your judgment would have resulted and what would have been the effect if Secretary Stimson had followed up his note of protest, without waiting for Britain's joining with him in it?

Do you think it would have had any effect? Had not Japan gone so far that nothing would have deterred her from the step, or what is your judgment about that?

Mr. CLOSE. I can give you what to me was a very interesting insight into that. I was in Japan when the seizure took place, and I hopped right over to Manchuria and got in touch with some of the leading generals whom I knew rather well, who had been engaged in the coup—Japanese generals. I learned that the arrangement between them and Tokyo was that they seized Manchuria under the

guise of a revolt against their own government in Tokyo, so that if Uncle Sam should get hard with Tokyo, Tokyo could repudiate what was done by its own armies, and say that they had revolted against authority.

**Mr. JOHNSON.** Acted without authority?

**Mr. Closs.** Which shows that Tokyo was rather afraid of what America might do on her own, and of course we had them pretty much at our mercy, seeing that they were so dependent upon our factories for their essential war goods and dependent upon their sale of silk here for money to buy those goods, and there is nowhere else in the world they can sell that silk except here.

After some days elapsed, when it became obvious that we were going to do nothing, I was invited to a very grand Geisha party, at which I was asked by some of the leading military men present to join them in toasting what they called the correct attitude of Uncle Sam. I had to join them in that toast, but it was rather bitter saki to me, because I felt that our country was just being played for a sap.

To come down to serious things, again we find American policy stepping on its own toes. I will not need to repeat what Mr. Coffee brought out in connection with presentation of his bill. We are, with our materials, building up a power in Japan, that may soon be able to obtain unlimited finance from London.

A little more success on the part of the Japanese, and easing off of tension between England and Germany, and British financiers would be glad to go in behind Japan. After all, the Japanese have an excellent record for paying their debts, and suppose that that happens?

If it does, I think the fat is in the fire, as far as America is concerned, because Japan, with the ambitions and ruthlessness that the Japanese have, with their conceptions of empire and divine mission, and all of the rest, will certainly proceed in a manner insufferable to us in the Pacific, until there is a clash.

So it seems to me that we are very short-sighted in providing them the material with which to conquer China, to kill all resistance in China, so that they can then turn around and borrow foreign capital to challenge us with.

**Mr. RICHARDS.** I am very much interested in that.

Now, we have a lot—we read a lot in the papers every day, and in books about the kindred democracies of Great Britain and the United States. What is your idea about it? If things settle down in Europe, and Great Britain gets back into it most strongly in the sphere out there, do you think that Great Britain would double-cross us with the Japanese if it was for the interest of British trade to do so?

**Mr. Closs.** My impression from the contact that I have had with them, is that British bankers and merchants would double-cross anybody for their own interests. I imagine that the Chamberlain group would sell Mr. Chamberlain's umbrella in a pinch, or even the royal children.

It depends upon whom you mean by England, or the British people. There are millions of decent, very decent people in England, who feel about essential things the way that decent people do here.

**Mr. RICHARDSON.** I mean that Great Britain—it is my belief, and I am asking you if it is your belief, that Great Britain is mainly interested in Great Britain first and democracy afterward?



Mr. CLOSE. The present ruling class certainly is.

Mr. IZAC. We must differentiate between the city of London and the people.

Mr. CLOSE. I would just interject here that one of the reasons—it seems to me—one of the reasons why England, most unfortunately for her in the world and us today, has such a group in the Government is that the people of the Government of the United States failed to show sympathy with and back up the more decent element in England, when they were trying to do things in the world that were more in harmony with the principles of democracy.

Mr. JOHNSON. The opposition party of Great Britain—not the Chamberlain party, but the other party, would you include them in that answer to Mr. Richards' question, or would it be simply—is it your understanding that the Chamberlain party is the big-business party of England, as arrayed against another party that is not controlled by business, or what is your knowledge of that?

I am not familiar enough with British policies—

Mr. CLOSE. All other parties at present in England are highly disorganized. The Labor Party is split up into a number of groups, and the big-business party, Chamberlain's, is the only party that has a tight organization.

Mr. JOHNSON. Is Anthony Eden in the Chamberlain group?

Mr. CLOSE. He is a man who by class and training, Eton and all, belongs to the same group. He happens to have a more delicate stomach than the rest of them, and he and Duff-Cooper are men who sat down to the feast and seeing other nations being carved up and bleeding over the table got nauseated and got up and went out. But they may come back; after all, that is their gang.

Mr. JOHNSON. Is Churchill of the same group?

Mr. CLOSE. Mr. Churchill is of the same group essentially, except for the fact that he is a man who from youth has been exceedingly individualistic.

Mr. BLOOM. Coming down to neutrality, what would you suggest, in summing up, to give the committee the benefit of your knowledge?

Mr. CLOSE. Could I add, to leave this specific picture, could I add this to what Mr. Coffee brought in? For instance, you have today the fact that we have shipped twice as much oil to Japan in 1 year as we have in our entire naval reserve in Teapot Dome. As a matter of fact, at our present rate of shipment the last few weeks, we will ship as much oil to Japan, to the Japanese Navy, in 2½ months as we have in our entire naval reserve in Teapot Dome, and yet our Navy feels so concerned over reserves in this country that it is trying to recover the tideland oils that are claimed by the State of California. It is something worth noting in passing.

Well, I should say that, summing up neutrality acts, the neutrality bills, all of these various bills, are based upon the isolation theory, and the isolation theory is based on two fallacies. One fallacy is that aggression and war do not concern us until this continent is invaded or fired upon: a palpable mistake, a mistaken conception, for in many ways this country is concerned by a world kept in turmoil, and this country is concerned by the existence of very successful forces that are propagandizing all over the world, in our own country as well as elsewhere, against our system of government, religious tolerance, and

everything else. I am afraid that giving a few more triumphs to this group of aggressors is going to give so much encouragement to their followers here in America that we are going to have a serious menace from within against our own institutions, and I can see this growing up in the influence from Detroit and other places.

The second fallacy of isolation is that we have no influence in preventing aggression and wars that grow out of aggression; that all we can do is sit tight here at home and wait until Armageddon comes.

We do have tremendous influence. We had influence enough, had we used it, to prevent the Japanese aggression on China. We have influence enough now in economic power to wreck that aggression, and I believe that if Japan were stopped in her tracks in China you would see the other two angles of the three-power group toning down very rapidly.

I think that if Japan were stopped it would be the very best way to get at Germany and Italy, and the least risky way.

Mr. IZAC. May I ask a question? How would you suggest stopping Japan now?

Mr. CLOSE. I think the Coffee bill presents an effective way. I think that that would stop her.

Mr. BLOOM. Would not that name the aggressor nation?

Mr. CLOSE. That is frankly a bill that does not pretend to be neutrality; it is a bill that pretends to be policy, and that is my concluding point.

Mr. BLOOM. But would it not name the aggressor nation?

Mr. CLOSE. Certainly, I would do that, frankly.

Mr. BLOOM. How would that affect us? Would not that be considered by Japan as a very unfriendly act?

Mr. CLOSE. Certainly. And we are very stupid if we do not realize that they have done us many unfriendly acts already.

Mr. BLOOM. Two wrongs do not make a right, and what would happen then, if we should name Japan as the aggressor nation, and Japan should consider that as a very unneutral and unfriendly act, what might happen?

Mr. CLOSE. It is my impression that what would happen would be an overturn of the Government in Japan, the overthrow of the military party very rapidly, and the taking control again by the wealthy party of the Mitsuis, and so on, and a desire on Japan's part to confer with us and other nations, to see whether she could not save something out of North China, and turn the rest back; that is my conviction of the practical results; Japan is today in a very tight place.

Mr. JOHNSON. What about the economic situation in Japan?

Mr. CLOSE. It is on the ragged edge. Gold is almost gone, and as a matter of fact, the Chinese have the last few weeks been taking the offensive in China. The Japanese have been thinking of signing a military alliance with Germany; they have not much of anything to offer in the way of military power, but they certainly have a fine fleet to offer in return for open help from Germany and Italy to their armies in China.

Mr. BLOOM. What help?

Mr. CLOSE. They think Germany could bring pressure on us and other nations to stop our helping and aiding China.

Mr. IZAC. Now, the silk that we are buying from Japan, amounts to about \$70,000,000 a year, does it not, or it did—I would not say what it is now.

Mr. CLOSE. It has gone up now, very high.

Mr. IZAC. It is more than that?

Mr. CLOSE. The price of silk is at the top right now, and we are buying nearly \$100,000,000 worth, I think.

Mr. IZAC. That perhaps represents nearly all of our imports from Japan, does it not?

Mr. CLOSE. Yes, sir.

Mr. IZAC. In exchange for that, since she has no gold or practically none, Japan must get all of her oil and all of her scrap iron and all of the other things she can buy from us. Do you think that that little bit will be the determining factor in her success in China, in a modern war?

Mr. CLOSE. I do. I think that that bit has been the determining factor in her success thus far. Of course, she has been buying about \$500,000,000 worth a year in the last 2 years from us; in other words, making up 400 million in gold, which goes, I suppose, into the hole in Kentucky.

Mr. IZAC. Supposing this boycott by the American women is successful, and we do not buy or use her silk, and her supply of gold is depleted, does that mean the end of her invasion of China?

Mr. CLOSE. I am quite sure that it does. I think the Japanese military realize that. As a matter of fact, the Japanese invasion of China would have stopped at Nanking, if the Japanese had not been able to procure a complete new air force, airplanes, and the oil to fuel them, from the United States.

High officials in Tokyo wanted to stop it there and sit tight and wait for the Chinese to make a truce with them, but the military got an air force and said, "We can subdue the interior with an air force," and that is the tactics they have used, the air force first, and the infantry following on, ever since.

There is one angle of that trade business that is usually lost sight of. People say, "Well, what would happen to all of our silk workers and so on, if we stopped? More unemployment?"

Well, it would disrupt individual industries, but the American women would still wear hose, and underwear, and that hose and underwear would be made of American stuff if it was not made of Japanese silk, so that essentially and basically we would lose no wealth at all out of this Nation. We would rather be using up products that are now surplus, if we cut off buying Japanese silk.

Mr. IZAC. There is one alternative, that is nonintercourse, or stating to Japan, unless she keeps open the open door, we will not keep open the door in the Western Hemisphere. Would you recommend our going so far as that, if this boycott fails, and we find no other way to compel her to keep open the door in China?

Mr. CLOSE. I think that we would find it very practical to go that far. The Japanese today have no power left of reprisal upon us, that is the one thing that they do not plan to undertake at all. From the highest to the lowest, they understand that to bring about anything like war with the United States would be their finish. They dread that more than any other one thing. They have been trading

upon our isolationism, they have been trading upon our aloofness and upon our neutrality, and I have said it before, and I think that it holds good, that one good isolationist Senator, United States Senator, is worth more to Japan than a whole division of soldiers.

Mr. RICHARDS. I just wanted to ask, now, does this change Japan's situation; that she is able to become self-sustaining, since she has conquered part of China? What about the raw materials that Japan can get from China?

Will that cut into the raw materials that they heretofore bought from us to any great extent?

Mr. CLOSE. Certainly makes them self-sufficient in food, and with the cotton area of North China, they will rapidly become self-sufficient in cotton. As you notice by trade figures, their cotton purchases are dropping very low—they are only buying a third as much from us this year as they did 2 years ago, and very soon they expect to be self-sustaining from the standpoint of cotton if they can hold those three Northern Provinces of China proper, which are the Cotton Provinces.

Mr. BLOOM. May I ask this question: What surplus has Japan accumulated in munitions and commodities, do you know?

Mr. CLOSE. So far as I am aware, their surpluses cannot sustain a war. They have enough rice in their rice pool, they had a rice pool something like our wheat pool, they have enough rice there to feed their Army for a year. They probably have that much ahead. They keep or depend for the feeding of the civilian population upon their yearly crops plus the importation from Siam. Japan takes almost the entire surplus rice crop of Siam, which is quite large.

Mr. BLOOM. How are they in surplus with reference to munitions?

Mr. CLOSE. They are on the ragged edge. They are buying almost entirely from the United States the raw materials which are fabricated in Japan.

Mr. BLOOM. The thought in my mind, if I may pursue this for a moment, Mr. Johnson, if we should put an embargo on all shipments of all goods and munitions and commodities and everything else to Japan, that would weaken Japan, there is no question about that, but could not Japan continue for a long period of time under this embargo from the United States and without any assistance given to China, and would not the Japanese create more havoc under such circumstances against China than they would be the way we are proceeding at the present time?

Mr. CLOSE. Congressman Bloom, they could not possibly create any more havoc in China than they have created or are trying to create.

Mr. BLOOM. We would not give any—according to this act we could not give anything to China.

Mr. CLOSE. That is my opinion.

Mr. BLOOM. Now we are able to give to both.

Mr. CLOSE. What I would like to see would be an act that would be an act of policy, directed toward bringing the war in China to a close on the basis that that war was illegal, was a violation of the treaty with us, and was rapidly destroying our interests; but, barring that, if that could not be done, I would be very glad to see, from the standpoint of the Chinese, if I were speaking from their standpoint, all American supplies stopped to both countries. If that were

done—I would rather have the other thing done, Mr. Coffee's idea—but if that were done, I think that that would bring Japan to a standstill in China very shortly.

Mr. Bloom. I was asking the question on account of what you previously said, that for that reason, and now may I read this wireless?

Here is a wireless from Shanghai, dated April 15, addressed to the Foreign Affairs Committee of the House:

Provided revision Neutrality Act without making distinction between treaty violator and aggression victim and extension cash-carry system immeasurably aid aggressor, Japan, and inadvertently penalize China. We urge you in name of Sino-American traditional amicable relationship reconsider question carefully and devise measures immediately stop shipment to Japan all war materials, including oil, scrap iron, cotton, in order to bring mass murder innocent civilians, women, children to early conclusion and reestablish Far East legal order and international justice.

CHINESE CIVIC ASSOCIATIONS, SHANGHAI.

Mr. Close. I think that I can explain what is in their minds. China is now getting no material directly from the United States and cannot get any. What material she is getting is coming in through the road to Burma, chiefly English goods, and a little bit from Russia, across the Central Russian Highway, but China is paying for those English and Russian goods with Chinese silver that was shipped over in bulk, and is on deposit in New York. It has been sold, most of it, I think, in New York, and translated into a gold account on which they are drawing. They remit from New York to England and other places for these goods.

What the Chinese are afraid of is that this Neutrality Act or any one that would be passed would prohibit their drawing on their finances in New York, or using the proceeds of sale of silver under the Silver Act to the United States to pay for what goods they are getting from other countries. They are getting almost no supplies from this country.

Mr. Ford. There is nothing in our act to prevent that triangle relation of credits and balances at this time, is there?

Mr. Close. That is rather technical. I would not know how that would work out.

Mr. Ford. We have heard men come before this committee and say that the very fact that we have not imposed the embargo hurts China and the next day someone would come before the committee and say that the very fact that we have not, helps China, so there is some confusion on the entire subject.

Mr. Close. Of course, the position has changed. In the beginning China greatly needed the supplies that were shipped to her through Hongkong. That is all out, and now all China needs from us is the money, the credit, for the sale of her silver.

Mr. Johnson. Why is it changed? Because you cannot ship to China?

Mr. Close. The Japanese have occupied the seacoast.

Mr. Ford. Anything that they get from Burma or Russia will be from the British or Soviet?

Mr. Close. Nothing American is going through at all except some hospital supplies.

Mr. VORRS. Do you not think a bill such as the Coffee bill would be the thing—would be the most effective bill that has much chance of being considered?

Mr. CLOSE. Frankly, knowing the Orient as I do, knowing the west coast, that is my native region, I think that Mr. Coffee and yourself should receive great admiration for supporting something that is against immediate financial interest out there.

I know how much money many firms have made on the Pacific coast out of this war trade. It seems to me like more or less blood money at the expense of helpless Chinese men and women, and as being also at the expense of American interests and policy. But I think the fact that a movement to cut off sales that does militate temporarily against the pocketbooks of people on the Pacific coast, a movement like that coming from the Pacific coast itself should receive great respect and attention of the people of the rest of this country, and I feel that the passage of the Coffee Act, bringing Japan to a stand and to negotiations in China, as it would, might be the turning point of this whole aggressor business in the whole world right now.

Mr. VORRS. It would have a moral effect all over the world even though we named nobody else, and did not say why we passed it.

Mr. CLOSE. Frankly, I feel that our job is in the Pacific and I feel that—we go on talking about how Chamberlain let down Czechoslovakia, but we have done the same thing to China, as a matter of fact, exactly, although we are disgusted with England for not taking that picture in hand over there, and we talk about what we should do in Europe.

We cannot do anything directly in Europe. We can only make little executive pin pricks like the 25 percent additional tariff on German goods, but that does not settle the world at all.

We cannot do anything directly in Europe. We can only back up England and France if we want to, after they have risked everything to do something, but we can directly, with almost no risk today, do everything required in the Pacific to bring the Pacific back to a status of negotiation and out of a status of war. That is where the present war picture started, in the Orient; Japan started it, and I think Japan can finish it under pressure from us, and right there I think that we can turn back toward a better world, because with Japan having gone out of the fighting business, and into the negotiating business, Italy and Germany would most likely follow, at least there would be a strong tendency that way.

Mr. BLOOM. Could you tell me who the Chinese civic associations of Shanghai are?

Mr. CLOSE. Well, Mr. Bloom, when I was in Shanghai, the Chinese civic associations were several groups of unofficial committees, that would represent what you would have in this country as the civic betterment associations, chamber of commerce, civic welfare association, the hospital association, and that sort of thing.

Mr. BLOOM. They are all legitimate associations?

Mr. CLOSE. They had their headquarters in the Chinese chamber of commerce. There was one each for the settlement under foreign rule, and one of each for what was the Chinese district, and one for the French district, and so on.

Mr. BLOOM. Any further questions?

Mr. KEE. Mr. Close, in lieu of passing this specific legislation against Japan, do you not think it possible for us to accomplish the same thing by passing a bill something like that proposed by Mr. Thomas, in the Senate, or Mr. Guyer in the House, which would let us apply embargo to Japan, at once, and also we would have it in reserve for application against other nations who transgressed by treaty-breaking?

Mr. CLOSE. I think that my last paragraph of summary will answer that, if I may read it.

I conclude that any general neutrality act is complicated and may be useless and may be troublesome, and that acts to put restraint or compulsion on nations going to war, or nations destroying our interests, are needed, but that these acts should be offered frankly as such, and not as neutrality acts, just as rapidly as public opinion will press Congress for their enactment.

Mr. BLOOM. Any further question?

Mr. Close, the committee is very grateful for your coming here, and giving us all of this information, and we want to thank you very, very much.

Mr. CLOSE. It has been a pleasure, and I apologize for keeping you all afternoon.

Mr. BLOOM. The committee will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 4:30 p. m., an adjournment was taken to 10 a. m. tomorrow, Wednesday, April 19, 1939.)





## AMERICAN NEUTRALITY POLICY

WEDNESDAY, APRIL 10, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order for the further consideration of bills to amend the Neutrality Act.

The first witness today will be Mr. Maxwell S. Stewart.

### STATEMENT OF MAXWELL S. STEWART, NEW YORK, N. Y.

Mr. STEWART. I am an economist, formerly on the research staff of the Foreign Policy Association, and now associate editor of the Nation, and lecturer on international economic relations at the College of the City of New York. I have also lived for 6 years in the Far East, and am reasonably well informed on far eastern affairs.

Mr. BLOOM. Whom do you represent?

Mr. STEWART. I am national chairman of the American Friends of the Chinese People, but my statement is made as an individual.

Mr. BLOOM. You just represent yourself; you represent no organization of any kind?

Mr. STEWART. I represent the American Friends of the Chinese People, but my statement is my own, made as an individual.

Mr. BLOOM. All of your testimony will be so?

Mr. STEWART. Yes. I prepared it personally.

I welcome this opportunity to attend this hearing, because I feel that the action taken by this Congress on the Neutrality Act will decide in large measure the question of war and peace in our time.

Our existing Neutrality Act was enacted with a view to protecting the United States against war. With that purpose I have profoundest sympathy, but I feel that in its present form it stands as a definite menace not only to world peace but to our own national security.

The difficulty we face is a fundamental one. The law was framed to meet a hypothetical situation. It was designed to prevent this country from retracing the disastrous steps which led us into the World War of 1917. It was framed with special reference to Europe. But it so happened that the first conflict to break out after the passage of the act of 1937 was in the Far East. And for this situation the law was obviously not designed. This merely illustrates the danger

of establishing a rigid set of principles on the basis of the probable line-up of forces in the next war. It is impossible thus to chart the future, and we are bound to pay heavily for mistakes. Such a policy is certainly not neutrality, and it can scarcely provide any protection against our being involved in war.

The Neutrality Act has never been invoked in the Far East, because its application would so obviously be unneutral in its effect. China, a relatively poor country, has stood in desperate need of munitions and war equipment in order to defend its very existence. Japan, on the other hand, an advanced industrial country, could produce all of the munitions and implements of war it needed, but it could not carry on its brutal campaign 6 months without essential raw materials which it has obtained principally from the United States.

Mr. BLOOM. Do you mean by that, Japan has reserve materials, munitions and commodities, to last only 6 months, should they not get any more?

Mr. STEWART. This is, of course, an estimate, but I think it is a reasonable one. I think it is conceivable that they might last more than 6 months if they had assurance at the end of that period that they could obtain large supplies elsewhere, but if the supplies were cut off, the needs for maintaining their domestic economy would be so great that they would reach a situation, I think long before 6 months, where they would be faced with the necessity of withdrawing from China.

The flow of these strategic raw materials would not have been appreciably hampered by the application of the cash-and-carry clause, which is discretionary under the act.

To have applied the act in this situation would have denied China the weapons required for its existence, but would have imposed no effective restriction on Japan's military might. It would, in other words, have constituted a clear-cut bounty for aggression, and it would have served to penalize the victim of that aggression. It would have promoted rather than retarded the war spirit which is mounting throughout the world. Fortunately our President was wise enough to seize upon a technicality to prevent our participating thus in the destruction of China.

Mr. BLOOM. What do you mean by that, you agree the President acted wisely in not applying the Neutrality Act with reference to China and Japan?

Mr. STEWART. Yes; I feel that he acted wisely.

Mr. BLOOM. You feel if he did it would react against China as much as Japan, if not more?

Mr. STEWART. It would have reacted very much more against China, there is no question of that.

Mr. BLOOM. Have you read the Coffee resolution?<sup>1</sup>

Mr. STEWART. I have.

Mr. BLOOM. What have you to say about that?

Mr. STEWART. I am going to say more about it in my testimony.

Mrs. ROGERS. Do you not feel that some wise resolution would never be enforced? Everyone must have known when it was passed that it would be pro-Japanese and pro-British.

Mr. STEWART. It was passed with special reference to the situation in Europe, but no one had any thought of the situation in the

<sup>1</sup> See p. 681

Far East. That consideration seems to have been ignored. I think now everyone realizes that this was a mistake.

Mr. SHANLEY. Would you like to say something about the technicality of allowing the President to pass over the act?

Mr. STEWART. It was a technicality, but I think that it was a very real technicality in that the war has not been recognized by the League of Nations, or by China or Japan. So I think the President was within his rights in not applying the Neutrality Act.

Mr. SHANLEY. Would you say to your knowledge, if a state of war had existed, and had he placed in effect section 1, which is a direct embargo on arms and munitions and implements of war, that that would have injured to the detriment of the Chinese?

Mr. STEWART. Yes; Japan bought very little in the way of arms and ammunition.

Mr. SHANLEY. You say that from your own knowledge, with statistics to back it up?

Mr. STEWART. Yes.

Mr. SHANLEY. Now, would you go further and say, if the President picked out the second section, and he picked out certain materials, and certain materials which would have been to the disadvantage of China, because they needed them, and they need certain particular war materials that they cannot get, and the Chinese do not need them because they are getting them from Burma?

Mr. STEWART. I believe that you said China instead of Japan.

Mr. SHANLEY. I mean certain articles of material that the President could pick out, seemingly, from the testimony of Mr. Coffey and other witnesses, including Mr. Close, those are the materials which the Japanese would have needed, and now what would be the effect of that second section on that from your knowledge?

Mr. STEWART. Japan has ships, it has a certain amount of cash, so that Japan would probably have no immediate difficulty in obtaining supplies it needs under the cash-and-carry part of the act.

China, on the other hand, while it does not need raw materials as much as it does munitions, does not have ships. It might charter them, but I think it would be handicapped by the cash-and-carry clause to a greater extent than Japan would.

Mr. SHANLEY. No matter how the act was invoked it would have been a detriment to the Chinese?

Mr. STEWART. Yes.

Mr. SHANLEY. Now, suppose it was invoked now, what would be the effect?

Mr. STEWART. I do not think that the situation has changed. It has changed slightly, but I think the disadvantage would still be present.

Mr. SHANLEY. Many witnesses have come here and said it is too late now, that anything we do now would not help the Chinese.

Mr. STEWART. That is absolutely untrue. I think China can fight on for a long time to come, but she desperately needs economic assistance from abroad.

Mr. SHANLEY. She is getting it from us at this time?

Mr. STEWART. In small amount.

Mr. SHANLEY. In small amount?

Mr. STEWART. Yes; but an important amount from the standpoint of China.

Mr. BLOOM. Proceed, Mr. Stewart.

Mr. STEWART. The time has now arrived when an immediate change must be made in the act if the United States is not to throw its influence permanently on the side of aggression. For, make no mistake about it, Hitler and Mussolini and the Japanese military leaders are counting heavily on the retention of the act in its present form. They know that as long as American resources are denied to their victims, while they, in turn, can obtain unlimited supplies of raw materials legally they need have no fear of continuing their policy of aggression.

Although this country has refrained from actually inpenalizing China by invoking the act, the weight of its influence has nevertheless been on the side of Japan. For although our sympathies as a people have unquestionably been on the side of China, we have contributed the economic resources without which Japan could not have carried out its illegal invasion of the Chinese Republic.

This is a grave charge. But it is fully substantiated by the facts. In 1937, according to a study made by the Council for Economic Research, the United States shipped more raw materials, munitions, and other war supplies to Japan than all of the other countries of the world combined. The United States contributed 92.2 percent of Japan's copper imports, 60.5 percent of its oil imports, 91.2 percent of its imports of automobiles and parts, 59.7 percent of its imports of scrap iron, 41.6 percent of its pig-iron imports, and 48.5 percent of its imports of machinery and engines. Well over a third of Japan's steel was made from American raw materials, scrap and pig iron.

In 1938 there was a slight decline in American exports to Japan, but there was a sharp rise in the proportion of war materials. Some idea of the tremendous amount of assistance given to the Japanese war machine may be gained by analyzing our \$528,000,000 export trade with Japan during the 2 years of 1937 and 1938.

What is it that the United States has been selling to Japan in such vast amounts. Raw cotton headed the list. Our total sales of raw cotton to Japan in 1937-38 were valued a \$114,368,000. This raw cotton is not primarily a war commodity, although some of it went into explosives. But most of it was used in the making of Japanese cotton goods which, when exported, supplied Japan's war-makers with foreign exchange. In turn, the proceeds were used to purchase war supplies. The next largest American export to Japan was petroleum and petroleum products—valued at \$91,565,000. Note this amount carefully and compare it with the figure for raw cotton. In 1937-38 we sold to Japan almost as much petroleum and petroleum products as raw cotton. But this petroleum item is just the beginning of our war exports to Japan.

The third largest item was iron, steel, and tinplate scrap, valued at \$61,421,000. Fourth on the list was copper, \$41,358,000. Fifth was power-driven, metal-working machinery, \$35,518,000. Sixth comes iron, steel, and tin semimanufactures, \$29,526,000. Seventh is automobiles, parts, and accessories, \$23,723,000. This item includes, among other things, 16,262 American motor trucks and busses, and 18,157 automobile engines. Eighth was pig iron, \$14,558,000. Ninth was aircraft and parts, \$13,553,000.

Except for raw cotton, each one of the first nine items on the list of our main export commodities to Japan is a primary or secondary war

material. They are all essential to the conduct of Japan's invasion of China. Add up the eight items, and what is the total? It comes to \$311,222,000—more than three-fifths of our total 1937-38 exports to Japan.

Raw cotton, at \$114,368,000, accounts for somewhat more than one-fifth. The remaining one-fifth, actually \$102,543,000, includes such items as ferroalloys, aluminum, lead, nickel, zinc, hides and skins, and internal-combustion engines, all secondary war materials, though sold to Japan in amounts less than \$10,000,000 in 1937-38. If these be added to the total of \$311,222,000 for items 2 to 9, the aggregate sum of American war materials sold to Japan in these 2 years would mount to well above \$350,000,000, or close to 70 percent of our total exports to Japan.

We must remember that Japan itself is almost completely devoid of the essential war materials which the United States has furnished. It can produce less than 10 percent of its normal peacetime requirements of oil, to say nothing of its war-time demands. It has no cotton, and cotton is necessary for explosives as well as to keep Japanese textile mills going. It can supply considerably less than half of scrap iron, iron ore, copper, lead, and zinc needed for war purposes. And it will be noted that none of these commodities can be furnished by Japan's allies, Germany and Italy. For most of them the United States is the only important source of supply. There are several essentials, such as high-test gasoline for use in airplanes and certain types of machinery, which can only be supplied by the United States. Japan cannot even obtain the machines which it needs from its ally, Germany. In 1937 it bought six times as much machinery from us as from Germany, and in 1938 Germany experienced shortages that made it refuse to export the kind of machinery that Japan wants. But we have been furnishing Japan the means of armament—high-speed metal-working-tools—at a rate of 75 percent above the 1937 record.

I should like permission to read into the record, if I may, the details of Japan's dependence on imported war supplies. This material was prepared by Prof. Eugene Staley of the Fletcher School of Law and Diplomacy and, I believe, is the most authoritative data available.

Mr. CHIPERFIELD. Mr. Chairman, while he has paused, I would like to ask this question.

Is it your idea, then, flatly to formulate our neutrality policies, so that we would assist those countries which we are friendly with at the moment, or that have our sympathy?

Mr. STEWART. I think it is dangerous to attempt to formulate your neutrality policy to meet a hypothetical situation.

Mr. CHIPERFIELD. Well, the only reason I say that, I am in complete sympathy with your views on this Japan-China question, and you are citing these figures showing how we have been assisting Japan, but are we to formulate a policy that would impose punishment, embargoes, say, on Japan, just because of the fact that our sympathies are one way or the other on these things?

Mr. STEWART. No; I think that that would be dangerous, but I think that it is unquestionable, as I shall develop a little later, that

Japan's invasion of China is a threat to the security of the United States.

That is true in several respects, and I would advocate definite action taken, not to punish Japan, but to terminate our assistance to Japan as a means of protecting our own national security.

Mrs. ROGERS. Then it would not be a neutrality act.

Mr. STEWART. It would be a self-defense act. I think the word "neutrality act" is very unfortunate.

Mrs. ROGERS. But an unfriendly act to Japan.

Mr. STEWART. It would be unfriendly in the sense that you are unfriendly to an outlaw.

Now, this list of commodities which Japan lacks, and the use of those commodities—I think perhaps is too detailed to read here, but I think it would be important to put it in the record.

Mr. KEE. It will go into the record.

Mr. IZAC. I think that we might pass it around if there is no objection.

(A list was shown to the members of the committee.)

(The list above referred to is as follows:)

1. Materials for which Japan depends almost entirely on foreign sources (rate of self-supply of 0-10 percent):

Petroleum (basic as a source of power for mechanized warfare on land, sea, and in the air): The Japanese output of crude petroleum and natural gasoline for the year 1933 was 2.4 million hectolitres, while imports of petroleum and its derivatives were 25 million hectolitres, "excluding naval requirements." The rate of self-sufficiency was thus 9 percent or less. Refinery capacity has been increased of late and imports of crude oil have been replacing imports of gasoline, but still the Mitsubishi Bureau estimated in 1936 that if derivatives manufactured in Japan from imported crude oil are added to the domestic output, the domestic output of refined products supplies only 41 percent of the normal demand.

Nickel (alloy metal for steel used in heavy machinery, heavy guns, and armor plate; considered extremely important in manufacture and replacement of war equipment): Discovery of new sources and technical developments may have lessened Japan's dependence.

Raw cotton (provides the cellulose base for explosives).

Antimony (hardening agent with lead and other metals, for bullets, shrapnel, etc.).

Mercury (used as a detonator in high explosives and ammunition).

Aluminum (for airplane construction): Japan's dependence is said to have been reduced somewhat by development of production at home, but largely from imported bauxite, the primary raw material.

Rubber (for truck tires and many other uses in military and industrial equipment).

Wool (for military uniforms and equipment).

Platinum (important in laboratory work, manufacture of chemicals).

Magnesite (steel furnace lining, chemical uses): New resources are said to have been opened so that dependence is somewhat decreased.

Mica (electrical equipment).

Phosphates, potash, asbestos, and pulp (for rayon): Shellac and resin. Tanning materials.

2. Materials inadequate to meet domestic demand and mostly dependent on foreign sources (rate of self-supply of 10-50 percent):

Iron ore, scrap iron (basic in modern mechanized warfare, for transportation equipment, and for industrial equipment).

Manganese (the third essential, with coal and iron, in the making of most steels).

Tungsten (important in high-speed steel, without which machine tools would be much less efficient).

Molybdenum (uses somewhat like tungsten, for which it is a partial substitute).

Tin (food preserving containers for army supply, solder, bearings, chemical uses).

Lead, Zinc, Salt, Bristles, Animal fats, Jute, Flax and hemp, Oilseed.  
3. Materials inadequate to meet domestic demand and partially dependent on foreign sources (rate of self-supply, 50-90 percent) :

Pig iron. The primary materials, ore and scrap, are mostly imported.  
Copper, Chromium, Soda, Barytes, Pulp (for paper), Paraffin, Hides.  
4. Materials nearly adequate to meet domestic demand (rate of self-supply of 90-100 percent) :

Steel and ferro-alloys. The primary raw materials are mostly imported.  
Coul. Bismuth, Graphite, Gypsum, Clay, Silica-sand, Limestone, Fluorite, or cryolite, Alumite, Nitrogen (by fixation), Iron pyrite, Leather (but tanning materials and some hides imported), Lubricating oil, Asphalt, Lumber.

Staley, Eugene, *War Losses to a Neutral*, League of Nations Association, December, 1937, pp. 46-48.

**Mr. STEWART.** In all of this we are not only arming Japan against China, but we are actually arming her against ourselves. If Japan carries its aggressive program in the South Pacific farther and occupies American possessions, it can do so only on the strength of the sinews of war supplied by the United States.

Success for Japan in its illegal invasion of China would also endanger the security of the United States by encouraging potential aggressors the world over. Peace depends upon the general recognition of some standards of international law and equity. Each new victory for aggressors undermines that protection and threatens to throw the world into complete anarchy.

Fortunately it is not necessary to resort to war or threat of war to protect ourselves against the threats which are arising in both Europe and the Far East. The United States is the world's leading commercial and financial power. Its strength is far greater than generally realized. There are numerous methods short of war which, if resolutely adopted, can yet prevent the final disaster of war.

Many of these protections have already been written into our statute books and need only to be applied in the present crisis. The President has already increased the tariff on certain German imports by 25 percent. He could take the same action against Japanese imports. Section 338 of the Tariff Act empowers him to go even further and ban either German or Japanese imports altogether on the ground that each country has discriminated against American exports. That such discrimination exists has been established beyond question.

Congress can, of course, go much further. It can make it illegal for American citizens to advance loans or credits to nations or the citizens of nations which have violated a treaty with the United States.

**Mr. VORYS.** What section is that?

**Mr. STEWART.** That is an action which has not been taken, but which can be taken by Congress. I have already finished the section where I dealt with the action which could be taken under existing legislation.

**Mr. VORYS.** May I ask this question? As I heard, I thought you said that a ban under the existing legislation, under the tariff legislation, could be taken because of a violation of treaties?

**Mr. STEWART.** Not a violation of treaties, but discrimination against American exports—that is, in the tariff act.

Congress can and should adopt legislation such as the Coffee bill (H. R. 5432),<sup>1</sup> prohibiting the export of arms, ammunition, and im-

<sup>1</sup> See p. 631.

plements and materials of war to such nations. It can suspend all economic relations with treaty-breaking nations, such relations to be restored the moment that nation reestablishes itself as a law-abiding member of the family of nations.

Such action, you may say, would be discriminatory. Of course it would. We have a choice between discrimination against lawlessness and connivance in crime. We would not think of aiding crime in our own community. Why, then, should be accomplices in international crime? Why should American iron, American steel, American copper, American oil, American chemicals, and American aircraft be used to destroy and kill in China?

Some say that such discrimination would lead to retaliation and possible war. I see no basis for such an assertion. There are many laws now on the statute books which discriminate against foreign nations. Yet no one has suggested that they are likely to lead to war. I refer there especially to those sections of the tariff act which empower the President to take retaliatory action against such countries as discriminate against American exports, to the Johnson Act, which prohibits loans to some countries and not to others. The most-favored-nation clause is in a real sense discriminatory. It provides for special treatment for countries which refuse to deal fairly with our trade. The experience of the past few years shows an even greater need for protection against countries which refuse to recognize even the most elementary laws of international relationships.

Mr. SHANLEY. You say that it permits a discrimination. That is only a bilateral discrimination; if a country with whom we have a tariff discriminates against somebody else, there is no penalty provided. We can't provide any penalty there, if they do something that we think is morally reprehensible; we are not going to use that discriminatory right to penalize them for that. Should you not make a distinction between those instances?

Mr. STEWART. The most-favored-nation clause is really a moral principle; it is a statement that we shall treat fairly and equally those who are fair and equal in their own relationships.

What I am asking here for, in the field of broader international relationships, is a similar moral principle. Where countries are not willing to accept that principle, I think that we are well within our rights to discriminate against them because their actions affect the security and interests of the United States.

Mr. VOYRS. I did not mean to interrupt, but following the thought there, could we not invoke that type of discriminatory treatment against Japan because of Japan not yielding to the United States the same favored-nation treatment that she does to this independent nation of Manchukuo?

Mr. STEWART. We can, as far as the Tariff Act is concerned.

Mr. VOYRS. If we want to be realistic about it, we have discriminations against us.

Mr. STEWART. That applies to our tariff policy, but I was pleading for the extension of that principle into broader fields, of our foreign policy.

Mr. VOYRS. But I mean the principle is there. You have an analogy under our possible treatment under the most-favored-nation clause in the tariff, an analogy which could be carried forward probably into other fields.



Mr. STEWART. Precisely.

Mr. KEE. Our imports from Japan, outside of silk, are rather negligible, are they not?

Mr. STEWART. There is no one item that is very large, but, put them altogether, it is a fairly large amount. Of course, silk is the most important.

Mr. KEE. The imposition of additional tariff restrictions would not amount to a very great deal as a lever to influence Japan; that is, comparatively.

Mr. STEWART. I think that you are correct about that. I think much more important would be some tariff on silk or some restriction on the import of silk on the grounds that I have just developed.

Mr. KEE. Any other question along that line? All right; you may proceed.

Mr. STEWART. No one can say flatly that these measures would involve no risk to the United States. Any policy that we might adopt at the present time would involve risks. We have already seen some of the risks of inaction, and I have touched on the even greater risks involved in applying the Neutrality Act. In either case aggression, with its threat of world catastrophe, will remain unchecked.

Let us be realistic about this matter of a general embargo on trade with Japan. How serious a risk is it? Could Japan attack the United States if we refused to supply her with war materials? The answer is plain. She might in a fit of insanity. But there has thus far been no hint of insanity in the cold, calculating occupation of large sections of China, Hainan, and the Spratly Islands. In each instance the Japanese leaders knew exactly what they were doing. And, in any event, Japan could do us very little harm unless we furnished her with the war equipment with which to attack us. She is already deeply involved in China. Her Navy and air force is far inferior to ours. She has not, as we have seen, the oil, copper, iron, lead, antimony, or other basic war materials to carry on an extended conflict. And she cannot obtain these in sufficient quantities elsewhere. So we can pretty confidently rule out the danger of an attack from Japan.

What if economic pressure fails? Should we then resort to military pressure? The answer is, why should we? We cannot harm Japan directly by military means any more easily than she can harm us. The Pacific is far too wide for either country to cross with an expeditionary force. Even in war our most effective weapon against Japan would be economic—refusal to buy from her or to sell her the necessary raw materials for carrying on the war.

Economic measures might take time, but they cannot fail if generally applied, and in the meantime we can have the assurance that we are not participating in the slaughter of innocent Chinese.

The most satisfactory proposal before this committee, to my mind, is the Geyer resolution. This would restrict the export of secondary war material to belligerents, as well as the shipment of "arms and implements of war"; and it would permit the President, with the approval of Congress, to lift the embargo against the victim of aggression. Unless some such provision is inserted, the act had better be repealed altogether. The Pittman bill, for example, would definitely work to the advantage of Japan.

In case the Geyer resolution is not adopted, some special action will be necessary to terminate the very great assistance now being given Japan. In the current discussion of checking Japan's illegal invasion of China, the average person thinks mainly of stopping direct shipments of American materials to Japan. Such action might not be as effective as is ordinarily supposed. As Professor Staley points out:

United States exports to Japan would be stopped, only to be replaced in large part by exports of competing producers in other countries. We have no monopoly on cotton, oil, copper, and other important war materials. The result of a single-handed withholding of supplies would be diversion of trade away from the United States without effectively handicapping Japan.

That is true of some commodities; and other commodities, as I pointed out earlier, we can completely cut off Japan's sources of essential supplies.

There are undoubtedly some materials which Japan would find it difficult to obtain directly from other countries, but even in the cases of these commodities it would be very difficult, if not impossible, to prevent her from obtaining these American supplies indirectly through a third country—including Chinese ports occupied by the Japanese Army—Hong Kong, Mexico, Canada, and other countries. It is evident, therefore, that any consideration of economic measures to check American aid to Japan must be of considerably broader scope than a mere embargo on exports.

I want to emphasize this because I feel that Congress should be very careful to draft a measure which is complete enough to really terminate our economic assistance to Japan.

An embargo on imports would probably be more effective in weakening Japan than an embargo on exports. This is because a curtailment of purchases from Japan results in a loss in Japan's ability to purchase supplies of all kinds, and in view of the present stringency of Japan's exchange position would substantially curtail her ability to purchase essential war materials. The extent to which Japan's exchange position has deteriorated since the beginning of the war is indicated by a dispatch to the New York Times on June 19, 1938, in which it is stated that Japan's wealth abroad has been reduced from \$400,000,000 to \$35,000,000 within a year.

Thus the Coffee resolution is admirable, but it does not go far enough. Any law of this type, to my mind, should be drafted very carefully to plug up the loopholes mentioned above.

The following is an indication of the breadth of the measures which are necessary if American economic assistance to the Japanese militarists is to be effectively terminated.

Here I have made a careful study of measures of this type taken by other countries, and have sought to set down the scope of the measures, which to my mind should be taken, if this job is to be done effectively.

1. An embargo on the shipment of arms, munitions, and implements of war—including airplanes and parts—to the Japanese Empire, and Manchukuo and to the parts of China occupied by Japanese troops.

Mr. KEE. Are you making that as a suggestion generally applicable to all other nations, or an act particularly applying to Japan?

Mr. STEWART. Particularly applying to Japan. I think that there is ample justification for such an act.

Mr. KEE. Special legislation.

Mr. EATON. This is not being proposed under the name of neutrality?

Mr. STEWART. No; American self-defense.

Mr. SHANLEY. Mr. Stewart, have you any protection for transshipments?

Mr. STEWART. Yes; that is a difficult problem, but I think the Congress should take great care to make such safeguards.

Mr. KEE. All right.

Mr. STEWART. 2. An embargo on the following raw materials and manufactured commodities essential for war-making:

(A) Petroleum, crude and refined; gasoline and motor fuels; fuel oil and lubricants.

(B) Pig iron, scrap iron, steel, and steel products.

(C) Refined copper.

(D) Nonmetallic minerals.

(E) Chemicals used in the preparation of munitions.

(F) Machinery, including parts and machine tools.

(G) Automobiles, trucks, and parts.

3. Prohibition of all direct and indirect loans and credits, including commercial credits, to the Japanese Government or to any corporation, public authority, or individual in Japanese territory or in the territory of China, including Manchukuo, occupied by Japanese troops.

4. An embargo on all imports of goods consigned from, grown, produced, or manufactured in Japan, the Japanese possessions, or Manchukuo. Exception may be made for gold or silver bullion.

And I should add to that a definite prohibition of all of these specific means of aiding Japan through third countries—that is difficult, but I think that it can be worked out, though I don't have the formula here.

Mr. EATON. This would constitute as complete an embargo on the United States as it would on Japan, would it not?

Mr. STEWART. It certainly would.

Mr. EATON. That to me is an aspect of this whole program that we have got to consider, the economic effect upon our own country, of these reductions in our trade, have we not?

Mr. STEWART. Fortunately, it would not be very great. It would certainly have much less effect upon us, than it would on Japan.

Mr. EATON. It would cancel the production of all of these materials in this country.

Mr. STEWART. Most of these goods at present are enjoying a swollen demand because of the war in the Far East, and it is not a normal demand; it is an abnormal demand. Japan has already cut down its imports of cotton and other peacetime requirements which it formerly imported from the United States. Most of its demands now are demands for war materials, secondary or primary war materials, so that it is not a normal trade that I am asking to be cut down.

Mr. EATON. I am just raising the question, that the net result would be to shift this trade from our borders to the borders of some other country, and, of course, I am not arguing for or against; I just want to point out that that is the effect upon our home economy.

If we lose that trade we have lost it permanently.

Mr. STEWART. Many of these things cannot be obtained in other countries, and none of them can be obtained in other countries unless Japan can get the foreign exchange to buy them, and she cannot get sufficient foreign exchange unless we furnish it. That is, we furnish well over a quarter to a third of the total amount of foreign exchange available to Japan for the purchase of war materials through our purchase of Japanese goods.

Mr. SHANLEY. Is there any suspicion that she could get this foreign exchange from her English friends?

Mr. STEWART. Our trade with Japan has grown vastly more in the past year than the trade between the British Empire and Japan. As a matter of fact, trade between the British Empire and Japan has fallen very considerable; ours has fallen slightly, but by no means in the same amount; and in war materials our trade has gone up very substantially, and that of the British has not.

Mr. SHANLEY. You said that you haven't got the formula of transshipments; to my mind that is probably the most difficult thing in all of these embargoes—is that you can't prevent transshipments; it is all the continuous-voyage doctrine again that is so difficult to enforce.

Now, has anybody got the formula.

Mr. STEWART. I think the formula is probably the application of quotas to limit shipments to peacetime requirements, but I am not at all sure that this would be necessary. If we cut Japanese imports to this country and thus deprived Japan of foreign exchange she would be unable to purchase through third countries or from other countries because of the lack of foreign exchange. That would really strike her a body blow.

Mr. SHANLEY. Of course; the triangle of trade might help. She can get that through investment. We had a gentleman here yesterday who made the startling statement that the British were just hair, hoof, and hide interested in the Japanese going into China and would do that at the sacrifice of our own interests. There are those who are students of the Far East who believe that the British particularly are interested, that the trek of the Japanese be westward, or into the heart of China rather than into Australia or New Zealand.

Now, with that supposition, those people who believe that way are going to do everything that they can to aid that continuation.

Mr. STEWART. I don't think that there is any evidence for that contention. I think British interests in China are being threatened, perhaps, even more than our own, and it would seem to me that in the Far East the evidence is pretty clear that the British have tended to follow our policy very closely. That is certainly true of the loans, and I think it would probably be true of action such as I have outlined. The British are not willing to do it alone, but if we take the lead, I think that there is a good deal of reason to believe that they would take similar action.

Mr. SHANLEY. When you say "British interests," the protection of Australia and New Zealand, and the eventual removal of Japanese threat to those countries—there may be a choice of two evils.

Mr. STEWART. You would not suggest that the occupation of China and surrounding areas would remove the threat to New Zealand.

Mr. SHANLEY. It has been suggested by men who are Far Eastern students,

Mr. STEWART. My opinion would be just the opposite.

Mr. SHANLEY. How about the opposition of Mr. Hughes during the 1922 conference, when the belligerency was such that they had to give up the Anglo-Japanese alliance; it was one of the things upon which they got the support of the Australians and New Zealand.

Mr. STEWART. That is perfectly true; but a strong Japanese Empire built up on the basis of China would constitute a menace not only to Australia and New Zealand but to all of the entire British Empire.

Mr. SHANLEY. It would be a secondary menace in point of time.

Mr. STEWART. It would delay it; but the primary menace, now, of course, is to the British possessions near China—Hong Kong and Singapore, which are very important as far as the British are concerned.

America is a great country, far more powerful than most of us realize. The basic question is whether it shall stand on the side of order or on the side of anarchy. If the Neutrality Act cannot be revised so as to permit this country to cooperate in peaceful measures to aid the aggrieved and curb assistance to aggressors, it should be immediately repealed.

Far better that we wipe the slate clean and then take such action as is necessary to prevent our being actively enrolled as a partner in the aggressions now taking place in the world. In the Far East, for example, our duty is clear. Let us act to stop our disgraceful help to Japan. This would in no sense commit us to any specific course in the event of war in Europe. But it would serve as a warning to potential aggressors that they could not count on waging war on the resources of the United States.

Mr. JOHNSON. What was the expression you used there about Japan? Will you read again?

Mr. STEWART. Let us stop our disgraceful help to Japan.

Mr. JOHNSON. What do you mean by that?

Mr. STEWART. I think it is morally reprehensive that we should participate as we have as Japan's partner in its invasion of China.

Mr. JOHNSON. You are still speaking in generalities. What do you want done? Let us call a spade a spade, as we say.

Mr. STEWART. I suggested what I felt should be done. I think that we should stop all trade with Japan until she has withdrawn from China.

Mr. JOHNSON. An embargo on trade with Japan, of all kinds, munitions and all?

Mr. STEWART. I have outlined that.

Mr. JOHNSON. I did not hear the first part.

Mr. EATON. You do not object to the term "disgraceful," do you?

Mr. JOHNSON. I do not think that we could use such an adjective so far as the treatment of China by Japan; I don't know whether our conduct would be altogether disgraceful, but I am in sympathy with anything, speaking off the record, that would help China.

Mr. EATON. You would go as far as morally reprehensible?

Mr. RICHARDS. I was not here, at the time that you mentioned that, but did you suggest in your testimony that we should go further in case we thought that any other nation to be an aggressor nation?

Mr. STEWART. I think that the principles that I have outlined here for application in the Far East could well be adopted as general principles.

Mr. RICHARDS. You recognize that would wreck our trade structure?

Mr. STEWART. I do not think that it would wreck our trade structure. I think that it would involve a price, but a price which is a very small one compared to the price that we will have to pay for a general world war, which is what will happen if we do not take such steps.

Mr. ALLEN. Mr. Stewart, do you feel at that point that our people would be willing to pay that price, under the stress of economic pressure, do you not feel that sentiment of our people as a whole might force us to take certain actions at a specific time, which would be contrary to the plan which you have outlined?

For example, if we had to apply this embargo, to, let us say, Germany, lightly as well as Japan, and at the same time, or any other aggressor nation, the cumulative effect on our economic system might be pretty oppressive.

Mr. STEWART. The sooner we take such action, the smaller the price we have to pay. If we had taken this action in 1931, the German-Italian situation would not have arisen, and if we take it now against Germany, Italy, and Japan, I think that we can be confident that there will be no war and no further aggression.

If we allow such contingencies as have been mentioned to rule us, we will find ourselves in a situation where we probably have no trade at all. We will have general international anarchy.

Mr. JOHNSON. What do you think of the failure to invoke the present Neutrality Act against China and Japan?

Mr. STEWART. I feel that it was justified.

Mr. JOHNSON. On legalistic or moral grounds, or both?

Mr. STEWART. On legalistic grounds, not on technical grounds, although I think that he was well within—

Mr. JOHNSON. There is a technical legal ground.

Mr. STEWART. I think that he was well within his rights, in that.

Mr. JOHNSON. I understand that you have gone into that.

Have you finished reading your statement?

Mr. STEWART. Yes.

Mr. KEE. I would like to ask the gentleman—I notice you rather favor the enactment of the Coffee resolution here, but you spoke favorably to the Geyer or Thomas resolution or proposal.

Would you think if we enacted either one of the proposals, that it would be the part of wisdom rather to enact the Geyer or Thomas proposal, a general law giving us the right to apply what you might call these sanctions at any time but not rigidly binding us to do it in any case?

Mr. STEWART. Yes; I agree with your statement. I think that the Guyer resolution embodies the general principle which I should like to see applied to our foreign policy.

Mr. KEE. Could not the same thing be accomplished under the Guyer resolution by making an application of that to Japan and China, as would be done under the Coffee proposal, which is a specific legislation dealing with one country alone?

Mr. STEWART. I would say that the Coffee legislation would only need to be applied in case the Geyer resolution is not adopted.

Mr. KEE. Of course our right to apply it, either the Guyer resolution or the other, is based upon the breaking of treaties by the

nation to whom we make application, and we have ample reason to base an application in the case of Japan.

Mr. STEWART. There is no doubt about that.

Mr. KEE. And practically all of these other countries.

Mr. VORYS. Mr. Stewart, are you not a bit inconsistent there? You spoke very forcibly that we should not have a neutrality law based on hypothetical cases, because the nations are those which want to take advantage of our law, and would fix the facts so that they would not fit in with our hypothesis, and at the same time you urge the Geyer resolution, which in order to take care of Japan may take in a lot of other cases that we do not know whether we want to cover, rather than the Coffee resolution, which simply takes care of this one situation, where we know what we want to do, and may or may not create a precedent for other spheres.

Mr. STEWART. The advantage of the Geyer resolution, as I see it, is that it is flexible. The President, of course, is compelled to apply a general embargo, but then he can, if he finds that one nation is definitely the aggressor and the other the victim of aggression, ask Congress to lift the embargo upon certain countries, and that permits a good deal of flexibility. He does not have to make such a request and Congress does not have to accede to it, and you have the choice either of applying a general embargo against both countries, as the present law now provides, or of discriminatory action against the aggressor, such as I have asked for in the case of Japan.

Mr. VORYS. Now, just look, if the Geyer resolution were passed tomorrow, we still would not have any embargo against Japan, we would still have to wait for the President to find that there was a treaty violation going on, and for the passage of a specific resolution aimed at Japan, so that after we got all through and did all of that, we would be just exactly where the Coffee resolution would bring us and we would not have created any precedent for hypothetical situations that might embarrass us.

Mr. STEWART. I do not quite agree with you. I think as far as the Far East is concerned, the Coffee resolution, the way I have indicated it here, would have the same effect as the Geyer resolution.

It certainly would not operate immediately, but the same principle could be applied throughout the world. Right at this moment, Europe is watching very closely to see what action we take, and I believe that if Hitler and Mussolini were convinced that we would furnish economic assistance to the victims of their aggression there would be no such victims.

Mr. VORYS. You have given a very forceful explanation of our own interests in the Orient. They are entirely different from our interests in Europe, are they not?

Mr. STEWART. Yes; they are quite different, there is no doubt about that.

Mr. VORYS. So that we might want to take one course with respect to the Orient and another in Europe, based on our national interest; is not that true?

Mr. STEWART. That is very true.

Mr. VORYS. So that if we passed legislation that would require similar action in Europe and in the Orient, we might be embarrassing ourselves; is not that true?

Mr. STEWART. I think the Neutrality Act has shown that.

Mr. VORYS. Whereas if we deal with a situation that comes up, where our interests, the action against aggressors, and so forth, all combine, then we have tended to one thing that needs tending to and have not created any embarrassment for further action; is not that true?

Mr. STEWART. I agree with you in general principle there, but I feel the Geyer resolution permits that degree of flexibility which you feel is desirable.

Mr. VORYS. One other question. Mr. Close yesterday said that if we would pass merely an embargo that would prevent shipment of petroleum and scrap-iron, maybe a few other things, that that would end the Japanese war in a comparatively few months. Do you agree with that?

Mr. STEWART. I would like to, but I am afraid the statement is a little overly optimistic. It would certainly help, and I think that the war would end within a year or two, certainly.

Mr. VORYS. Do you think that such action would force Japanese aggression to turn toward, for instance, Borneo, or places where there are oil supplies?

Mr. STEWART. I do not. I think that this threat is illusory. If Japan were weakened by an embargo, she would be in no position to attack a third country.

Mr. FORD. Could she not obtain these supplies from some other country?

Mr. STEWART. Some of them, but she would be definitely weakened. Scrap-iron she could not obtain in any large amount elsewhere, and scrap-iron is absolutely indispensable.

Mr. KEE. Just a moment, if you please.

You do not understand, of course, as intimated by the question of Mr. Vorys, that the Geyer resolution makes it obligatory on the part of the President or Congress to apply the terms of the resolution to any one country, at any one particular time. It would be on the books with the privileges of applying it, and we could apply it to Japan in the present emergency, and leave all of the other countries out, and then from time to time, we could apply it to any others.

Mr. STEWART. That is what I meant when I referred to the flexibility.

Mr. KEE. That is true, and also it cannot be applied by the President alone, but requires the approval of Congress.

Mr. STEWART. That is, the discrimination can only be applied that way.

Mr. KEE. Only with the approval of Congress.

Mr. STEWART. Yes.

Mr. KEE. It puts it squarely up to Congress?

Mr. STEWART. Yes, and I think perhaps that that is the bill's chief weakness, because it might happen that action should be taken more rapidly than that would permit. It might be better to leave it, say, to the Foreign Affairs Committee of the House to consult with the President.

Mr. KEE. No definite action with respect to these restrictions could be put into effect without the consent of Congress.

Mr. STEWART. That is the provision of the bill.

Mr. SHANLEY. Mr. Witness, how does this philosophy handle internal revolts?



Mr. STEWART. Civil war?

Mr. SHANLEY. Civil war.

Mr. STEWART. I do not think the Neutrality Act should be applied to civil war. To do so would be a serious mistake.

Mr. SHANLEY. That is not what you are talking about. That is not neutrality anyway, so how would you handle it?

Suppose that there is a revolt, we will suppose, in the Belgian Congo. Apparently there should be some moral interdiction, some offensive there. How should we handle it—how are you just going to draw the line?

Mr. STEWART. I would prefer to leave that to international law, as it has existed prior to the passage of our Neutrality Act, and that is to permit the country, the United States, to assist the established government.

Of course, that might be morally wrong, but I believe it is safer. I would not take any unfriendly action, such as is now provided for in the Neutrality Act.

Mr. SHANLEY. Is the Spanish situation there an exception?

Mr. STEWART. No. I am thinking particularly of the Spanish situation.

Mr. SHANLEY. You think that we handled it properly?

Mr. STEWART. No; I think that we handled it very badly.

Mr. SHANLEY. In what respect?

Mr. STEWART. I think that we should have continued to act in accordance with international law and furnish supplies to the established Government of Spain.

Mr. SHANLEY. But international law provided that when the revolt became of such large dimensions that we could give it *de facto* recognition, and some of the authorities believed that the act of January 1 was an *ipso facto* act of belligerency.

Mr. STEWART. I think that it was a mistake to give that.

Mr. SHANLEY. Because of moral reasons or because of the past experience of international law?

Mr. STEWART. Because of past experience of international law and for realistic reasons.

Mr. SHANLEY. I think, if I may suggest, the past experience from men who are expert in international law—and I do not suppose that you or I consider ourselves experts—was that international law had said that any rebel movement, when he assumes a certain status, and irrespective of moral issues involved in it, the Spanish rebels had assumed all of the qualifications of belligerency.

Now, unless we look at it from a moral angle, we have got to admit that.

Mr. STEWART. I think that that is a very debatable point, but I am not qualified to pass technical judgment upon it.

Mr. SHANLEY. Therefore, you say that in that case, you said that you would leave it to international law, and then when it is left to international law, you find a mooted question there, so that the very place that you gave or the very hope that you have for the solution of the internal affairs is lost.

Mr. STEWART. I do not think, as I said before, that the United States should resort to any special legislation to cover that type of situation.

Mr. SHANLEY. That is what international law provides, when the executive recognizes it, it is executive recognition. It is the only way that he can recognize it. Certain nations violate the international morals, and they have got to be quarantined; that is it, is it not, in your ideology?

Mr. STEWART. Yes.

Mr. SHANLEY. Now, it is also based fundamentally on the fact that the status quo should be preserved?

Mr. STEWART. I do not think that we should attempt to pass upon a nation's internal affairs.

Mr. SHANLEY. This is not internal, this is external.

Mr. STEWART. It is a question of civil war.

Mr. SHANLEY. For example, Italy believes that they were mistreated, we will say, or maltreated, at the Versailles Conference, and they immediately seize the islands that they think that they are entitled to. Now, of course, they are an aggressor, there is no question about that, but if you go back to what the ostensible reason for it was, you would have to pass upon the justice of the status quo, would you not?

Mr. STEWART. I would not care to pass on that. It seems to me that the issue is a simple one: You have a country violating international law, the Kellogg Pact, by resorting to force to settle international disputes, that is where I would draw the line. Whether they were justified from the standpoint of past experience, or past claims on the basis of the national rights, I do not think is a question for us to decide. It is a question for the courts to decide, and if a country carries its case to the courts, it has every right to have a fair dealing.

Mr. SHANLEY. When you say "court," you mean the League court?

Mr. STEWART. The World Court, or other forms of international arbitration. Such disputes should be settled in that way and should not be settled by war, because I think that we all recognize that war is a threat not only to the countries involved in the dispute, but the entire world, and we have a concern in that.

Mr. SHANLEY. Now, you have said, that had we gone into Manchuria in 1931, we might have solved this situation.

Of course, that has been said by a lot of other people and I re-read Mr. Stimson's testimony, and he said that he was horrified by what Sir Simon did at the League of Nations; he practically made a justification of the Japanese expedition into Manchuria. Mr. Stimson in his testimony, which I just read yesterday, available for the first time, said it was absolutely unbelievable, he was disappointed in what he had thought. He went out on the limb within 4 days of that coup, and after the Lynton report came in Sir Simon stood up in the League of Nations and defended the Japanese.

There was the one country that he could expect some help from, and I do not know whether you read that or not, the papers do not carry the colloquies in these hearings, they just take what they think are the salient features.

Mr. STEWART. I did not read that, but I do recall that in the very early days of that incident, September and October 1931, the League was prepared to take—or at least the League appeared prepared to take—some economic action, and the United States at that time

showed no disposition to cooperate. It was only subsequent to that that the United States took the lead in desiring to curb Japan, but there was a period, I think a very important period, in September and October, when the League, under the influence of Briand, was apparently prepared to take action, and the United States held back. I think this was because Mr. Stimson had the feeling, as borne out in his book, *The Far Eastern Crisis*, that he could count on the liberal elements of Japan overthrowing the military, if he was conciliatory and did not press too hard. I think he now recognizes his mistake. That was a very crucial period, and I think the people in this country tend to overlook that period.

Mr. SHANLEY. I had the impression, and I may be wrong—I think most historians say we did everything that we could properly do. We went out on a limb.

Mr. STEWART. We did subsequently, in December and January.

Mr. JOHNSON. It was Britain's failure to participate, was what stopped our efforts.

Mr. STEWART. Yes; but I feel that there was a very important period of several weeks, when under the leadership of Briand, Britain would have participated in League action. That that is a very important point which is overlooked generally in this country in our desire to escape the onus of that situation.

Mr. JOHNSON. Any other questions?

Mr. IZAC. I would like to ask some questions.

Are you prepared to give us similar figures in relation to our trade with the other aggressor nations, as you have given about Japan, and if so, what would be the effect of our laying down a broad policy of embargo, of not sending, at least, essential war supplies to Germany or Japan or any other aggressor nation which might become an aggressor in the future?

What effect would that have on their being able to conduct an aggressive war of some magnitude?

Do they get enough supplies from us, as Japan does, as you have very capably shown, to warrant our having that as a basic law, putting in the hands of the President the right to declare an embargo to prevent a war of aggression?

Mr. STEWART. There is no question that Japan is much more vulnerable than either Germany or Italy to such economic action, and it is the most vulnerable of any country. But Germany and Italy are also vulnerable, particularly in this matter of scrap iron. Germany and Italy import large amounts, very large amounts, of scrap iron from the United States, which they need, and must have, but their dependence is not as great as that of Japan. Otherwise the situation is somewhat different.

Germany undoubtedly could go along in a major war for a much longer period than Japan could without economic assistance from the United States, but if she were denied that assistance, and countries against which she was engaged in a major war were permitted to obtain it, she could not win such a war, and she knows that she could not win such a war.

I think that the Germany policy in these past few months has been based very largely upon the assumption that in the case of war, the United States would deny supplies not only to Germany, which she could not get anyway because of Britain's control of the seas, but

also Great Britain and France, and if that were done, of course Germany would have a tremendous advantage.

Mr. IZAC. Would she be able to make up for what she could not get from the United States, by drawing on the supplies from her allies, or her immediate neighbors, that would not be in a position to say "No" to her?

Mr. STEWART. To a certain extent, that of course is difficult to say, because no one knows what the relationship of Rumania would be, and Rumania has the oil. Whether Germany would have access to that oil we do not know.

Mr. IZAC. There is the feeling in the minds of several of the members that I know, that our exerting this pressure might result in a very thing we all fear, a feeling of desperation on the part of these aggressor nations, that they are being discriminated against, and they had better take the bit in the teeth, and go ahead and try to bring about a happy conclusion to their immediate objective, and thus encourage a war, or bring it about more rapidly.

Mr. STEWART. I do not think any country launches a war unless they have fairly good reason to believe that they can win, and if the economic resources of the United States were definitely placed on the side of the law-abiding powers and denied to the law-breaking powers, I think that that would turn the balance to such an extent that no country would risk a war under present circumstances.

Mr. IZAC. And still that is exactly what we are fearing today, that Italy and Germany feeling that they could not win in a long war, might indulge in an airplane war, because they have that preponderance now, and their success might attend a speedy campaign, and would not be so likely in a long drawn-out war, and therefore it might hasten this catastrophe that we all fear.

Mr. STEWART. I think that they can be fairly sure, if they looked up their history, that it would be a long war; and if the resources of the United States were available to the countries that were attacked in that long war, they would lose.

I do not subscribe at all to the theory that countries fight wars out of desperation. I believe that they fight wars because they think that they have something to gain; and if it is demonstrated to them that they have nothing to gain, they will not fight.

Mr. IZAC. Do you not think that that does not apply to dictators? It may to other nations, but those nations are not always the ones who go to war.

Mr. STEWART. Dictators make mistakes, but I think that they are motivated by those same principles. I do not think that there is anything in the events of the past few years that indicates that any of the dictators have taken unnecessary risks. They have taken what they have taken because by cold calculations they knew that they could obtain what they were after without risk.

Mr. IZAC. You would be willing to subscribe to a basic law giving the power to the President or to the Congress to declare an embargo?

Mr. STEWART. I think that such action on the part of Congress at this time would do more to prevent war in Europe than anything else that could be done.

Mr. IZAC. I have no further questions.

Mrs. ROGERS. May I ask a question?

For instance, if Germany and Italy should fight the so-called democracies and should win, how much do you think our country would be hurt? Would it make much difference? I suppose that we would have more trade with South America while the war was going on.

Mr. STEWART. The whole trade philosophy of Germany and Italy is that of restrictive trade based upon barter. If those countries would win, we would see the emergence of an international economy in which international trade would be very much reduced from its present levels.

Mr. RODGERS. Would not the cost of such a war be tremendous to Germany and Italy also, even if they won?

Mr. STEWART. Of course it would; and they would be tremendous to us, too, even though we were not drawn in, but particularly if we were.

Mr. BLOOM. Any further questions?

Mr. CORBETT. I would like to ask the gentleman who has spoken repeatedly about law-abiding and law-breaking nations—there are some people who feel that the law-abiding nations are those which have what they want, and have gotten it and want to protect it, and the law-breaking nations are the ones who want something that they have not got.

Now, coming back to the same question Mr. Shanley asks, are we the ones to determine whether they are breaking the law, justly or unjustly?

Mr. STEWART. I do not think that that should be a matter for us to determine. The question is whether they resort to force to attain their ends. We have a Kellogg-Briand Pact, in which all countries pledged themselves not to resort to force to settle international disputes, and I should say that that should be a sole criterion.

Mr. CORBETT. Along the same line, I believe I am correct in saying that most of the witnesses who have been before us have agreed that the imposition of economic sanctions will lead in most all cases to military sanctions. Now, if we are going to set ourselves up as the moral dictators, if you please, of the world, are we to be prepared to employ military sanctions or do you not think that they will necessarily follow?

Mr. STEWART. I do not see any reason why they should follow. I think economic force is really a much stronger weapon than most people seem to realize, a weapon which certainly, in the case of the Far East, is more powerful than military force. As I said in my testimony, we could not hurt Japan very easily by military methods, but we can bring her to her knees very quickly by economic force, and even if war were declared, it would still be economic force that would defeat Japan, not military.

Mr. BLOOM. Any further questions?

Mr. Stewart, the committee appreciates very much you appearing before them, and thank you for your enlightening statement.

I would like to call Mr. Bingham next.

#### STATEMENT OF ALFRED M. BINGHAM, EDITOR OF COMMON SENSE MAGAZINE, NEW YORK, N. Y.

Mr. BLOOM. Please give your name and address, and whom you represent.

**Mr. BINGHAM.** My name is Alfred M. Bingham, editor of *Common Sense* magazine. I am not representing any organization. I am speaking for myself.

As an editor, who has to try to make up his mind on public questions, I find that the problem confronting you gentlemen is as difficult as any I have tackled, and I sympathize with the difficulties that undoubtedly most of you feel in trying to think through a problem as complex, as tangled with emotions, and prejudices, and suppositions, as this question of neutrality.

I am not appearing here on behalf of any particular bill. I confess a great deal of difficulty in making up my own mind what kind of neutrality legislation should be passed. I am certainly not appearing as an expert on any technical features of the bills before you.

I am concerned with a general point of view which is too often lost sight of in discussions of neutrality. I think it may help us decide in particular on two very vital proposals. First, it may help us decide that we do need some neutrality legislation. In other words, I appear here as an opponent of those who would advocate the repeal of all neutrality legislation. Secondly, I think it may help us decide against what is commonly known as the Thomas amendment, which I understand is the Geyer<sup>1</sup> proposal here, as that also violates this general principle which we ought to follow.

Neither this committee nor the country at large is now deciding whether or not to stay out of the next general war. That cannot possibly be decided in advance, and no neutrality legislation is going to assure that this country remains neutral in the next war. The most we can hope to do, and this, I think, is the general principle which ought to be constantly followed, is that we retain our freedom of action. We should seek at all points to protect our own ability to make up our minds when occasions arise, and not permit ourselves to be dragged into a war inadvertently.

I have generally been classified as an isolationist, and *Common Sense* magazine has been considered in the isolationist camp.

I say that for your own information, although I consider the word "isolationist" to be rather useless in this connection.

**Mr. FISL.** Are you going to define the word as you go along?

**Mr. BINGHAM.** No; I am saying that I think the word is not worth defining, because it is too vague. I am convinced that we should not identify ourselves with England and France, in particular, so that we become joint defenders with them of the status quo. There is too much that is wrong with the status quo internationally to justify a war in its defense or to pretend that any such war is a war in defense of democracy or of civilization or even a defense of America itself.

There is too much wrong with the status quo for us to take any such position as that advocated in the Thomas amendment in the Senate, or the Geyer proposal here, that we should in advance declare that we are going to throw the full economic weight of this country behind any victim of any attempt to change the status quo.

In other words, these proposals to line us up behind the victims of aggression take away our freedom of action. They commit us in advance to a point of view which is likely to result in a progressive entry into any conflict, first, through economic warfare, and then ultimately through military and naval warfare.

<sup>1</sup> See p. 622.

On the other hand, I say that if we are to retain our liberty of action, we must have some neutrality legislation. I believe that it was Walter Lippmann who recently argued against neutrality legislation on the ground that it curtailed our freedom of action. I think that that argument is wholly fallacious. Neutrality legislation, I repeat, is not and cannot be designed to keep us neutral in any war that may break out. It can only be designed to permit the people to make a free choice in accordance with their view of the immediate interests when the time comes without being dragged in inadvertently.

Without any neutrality legislation I feel that we are bound to be dragged in inadvertently, and we lose our freedom of choice. There is plenty of evidence to show that we were inadvertently entangled in the last Great War, when we had no neutrality legislation, and merely plunged in to protect impossible theories of neutrality rights. If we have no neutrality legislation, we shall be entangled again, our financial and commercial interests will get a stake in the victory of one side, our ships will be sunk, and American lives will be lost. We will be blundering along until we are once more involved.

We must have some neutrality legislation in order to retain our freedom of choice. In the long run, I feel that the question of retaining complete freedom of choice requires such drastic economic controls that they are perhaps worthless to propose at this time.

I am of the school of thought which believes that we must move in the direction of greater and greater economic planning, as the only way not only of solving our domestic problems but of permitting us freedom of choice in the international sphere. Our economic system has become so inefficient, and I might even say absurd, that many people honestly believe war is the only way of achieving full employment and prosperity. That is the major danger to our involvement in war. So long as this is the case, so long as war will grant us prosperity more surely and more definitely than any other solution, the temptation to become involved in war is likely in the long run to be irresistible. Only as we develop sufficiently intelligent technique for democratic economic planning at home can we be assured against being embroiled in foreign war, inadvertently.

In that connection, I might cite some of the questions that were asked of Mr. Stewart:

"How are you going to impose an embargo on trade with Japan when there are such immense economic stakes in this country in that trade?"

The only way you are going to be able to take such action—and here I am not passing on whether or not such action is desirable, but the only way you are going to have freedom of action to decide whether or not that is in accordance with our concept of national interest, is by having a sufficient degree of economic controls at home so that we will not be dependent upon foreign trade.

There is no rational excuse for our being dependent on shipping cotton to Japan, or to Europe, when millions of people in this country have not enough cotton to clothe themselves. We must think in terms of sufficient economic controls so that we can assure every American a job, and a good income, and a share in "the more abundant life," to use the President's term, and only insofar as we succeed in that have we a good case for democracy as against dictatorship.

The dictatorships have solved unemployment. Until we have solved unemployment we cannot categorically take the holy and moral position and say that we are fighting for civilization against those who would destroy it. Surely a job for all is an essential element of civilization.

The need for economic planning is to my mind constantly brought out in all discussions of neutrality, and neutrality legislation, such as we have been hearing this morning before this committee.

So long as we have an unplanned economy, with no controls over economic activity, leaving it to haphazard hit-or-miss accidents, we are bound to drift and to drift into war. We are bound to be the victim of every upset to the status quo that occurs abroad.

There is no doubt that war, in any case, will have a frightfully dislocating influence on the American business system, and so far as the income of cotton and wheat growers depends upon the war demands of France and England, and so far as the jobs of millions of workers depends on the purchases from this country, and so far as our financial institutions become heavily committed to the solvency of those countries, and so far as our shipping industry becomes dependent upon a war trade, in every case we are more and more deeply committed, so that our active participation in the war becomes ultimately inevitable.

In other words, we have violated that fundamental principle that I think should guide us, of retaining our freedom of choice, and I think that the touchstone of all neutrality legislation, presented before this committee, should always be this:

Whether we have minimized the possibilities of being dragged into a war against our will?

Have we retained our freedom of choice?

From that point of view, such an approach as Mr. Stewart's, who has preceded me, seems to me irrelevant to the question of neutrality.

He is trying to decide how and when we ought to help victims of aggression. He is trying to decide what is the proper policy of national defense, and the defense of national interests abroad.

I take it that this committee is primarily concerned now with retaining our freedom of choice, and not with deciding in advance whether or not we are going to uphold international morality.

I should be glad to go over some of the particular features of the present neutrality legislation, and of other proposals before you, in terms of this basic idea of imposing sufficient economic controls to retain our freedom of choice. I might merely state briefly in connection with the present law, to illustrate my point, that in giving the President discretion to declare when a state of war exists, we have immediately limited our freedom of choice. That is, the American people no longer have a freedom of choice. It is left to what the President happens to think in terms of his general philosophy or general view of the world-wide situation. He can commit us to a war that we do not want to enter. I would be in favor of amendments which would make the declaration of a state of war mandatory and permit Congress also to have a determining voice.

Mr. JOHNSON. You would certainly eliminate freedom of choice, would you not, if you make it mandatory in the beginning? You have your hands tied before anything happens, and where is your doctrine of freedom of choice?



Mr. BINGHAM. A mandatory declaration that war exists has nothing to do with what you do under that declaration.

Mr. JOHNSON. I may have misunderstood you, but I understood that the stress of your statement and the basis of all of your philosophy with reference to this legislation was that we should retain our freedom of choice to act as the occasion arises. Now you come around and meet that by saying that you want legislation that ties our hands where we have no freedom of choice, and we have already predestined what should be done.

I am not saying that I do not think that that is right, but I am thinking that you are certainly not helping your position any by advocating the definite step of that kind.

In other words, it looks like your philosophy contradicts with your action.

Mr. BINGHAM. It is merely a question of a finding of fact, if war breaks out.

Mr. JOHNSON. You have been talking about the freedom of choice, and when would that be?

Mr. BINGHAM. The freedom of choice was exercised under our present law.

Mr. JOHNSON. But you do not leave yourself free to act when anything happens, that I can see. I do not see why you use the expression "freedom of choice" if you are not going to have any choice. If you choose in advance what your law is, I may be dense, I admit that I do not know as much as editors, but as a country Congressman I cannot grasp the illustration.

Mr. BINGHAM. Let me put it negatively, then. I think that we should take away from the President the arbitrary power to say when neutrality legislation applies.

Mr. JOHNSON. Where is the freedom, then, if you take it away from the President? Where is the freedom to repose, then; and is not the freedom gone if you have already acted in advance?

Mr. BINGHAM. I grant you that there is a choice of evils there. You cannot have a complete freedom of choice.

Mr. JOHNSON. You cannot act or have a freedom of choice after you have already tied your hands.

Mr. BINGHAM. I want to take away the arbitrary right of the President to apply the Neutrality Act with regard to his international policy.

Mr. SHANLEY. Would that throw the choice upon the Congress to act in a definitive sense by a prior definition of war, or would it act in each specific instance? Is that your thought?

Mr. BINGHAM. I am not prepared to say, categorically, what sort of provisions should be imposed to declare when the act comes into effect.

Mr. SHANLEY. That eliminates a definition. We all agree that it is impossible to make a definition on the outbreak of war. We have tried that in this committee, and I assume that you agree with us?

Mr. BINGHAM. Yes.

Mr. SHANLEY. Now, secondly, that leaves the alternative, if the President is not to decide it, the Congress must decide it; and we must take each state of facts and, as a matter of fact, it would be our duty under your philosophy to decide that there is a status of war—for in-

stance in the Far East—and draw our neutrality legislation accordingly; and it must be dealt with specifically as the occasion arises?

Mr. BINGHAM. I do not think that you can carry that principle too far, or you have no neutrality legislation at all.

Mr. SHANLEY. How far can you carry it, if not too far?

Mr. BINGHAM. I believe that the resolution introduced by Senator Bone in the Senate, which would not permit this discretionary power in the President, would give us a greater freedom of choice. It depends upon what follows from the neutrality legislation to what extent your freedom of choice is involved, and not when the decision is made as to whether the state of war exists or not.

Mr. SHANLEY. I understand that your objection to the act is that there is a prerequisite there of a finding by the President—that is, whenever the President shall find that there is a status of war.

Mr. JOHNSON. But as I understood the witness, he wants it automatic so that the President has no discretion, that that will operate automatically when there is a war, as I understand it.

Mr. BINGHAM. I believe that it should be mandatory, but I do not believe that that commits us to action. It is merely a mandatory finding.

Mr. JOHNSON. What does it commit us to, if not to action?

Mr. BINGHAM. It brings the neutrality law into effect.

Mr. JOHNSON. That prevents any action, it is negative. It stops the shipment of arms, and action can be negative as well as positive, can it not?

Mr. BINGHAM. It is protective action.

Mr. JOHNSON. When does the freedom come in, when we pass the law in the first instance, this freedom of choice? I am trying to find out where that enters the picture.

As I understand it, we pass the law that says automatically when a certain thing happens, that certain things should be done, and then war happens and that is automatically done. Then when do you exercise your freedom of choice?

Mr. BINGHAM. I am primarily concerned to prevent the President having such arbitrary power.

Mr. JOHNSON. I am talking about freedom of choice and not the President. I am talking about the application of the principle of freedom of choice, whether it is used in the law that we passed, or whether there is some freedom of choice after the law is passed, by the President or Congress or someone else.

Mr. BINGHAM. As I see the purpose of the legislation, it is to retain our freedom of choice in time of war, and there is no point in retaining freedom of choice as to whether or not war is in existence, if it is to be arbitrarily abused as the President has abused it.

By making it mandatory that a state of war be declared to exist, then you are protecting your freedom of choice through these methods that the neutrality law would set up.

Mr. JOHNSON. Mr. Shanley, do you understand that? You are an economist.

Mr. SHANLEY. I resent that. Mr. Witness, in the Nye bill, it says in section 1—

Whenever the President shall find that there exists a state of war, or whenever the Congress by joint resolution—

And so forth. Now, that includes a dual finding there.

Mr. BINGHAM. It is not dual, it is alternative.

Mr. SHANLEY. There is a possibility of two findings?

Mr. BINGHAM. Yes, sir.

Mr. SHANLEY. Which do you want? The Nye resolution includes the one that you have previously objected to.

Mr. BINGHAM. By giving the alternative power to Congress, it takes away that arbitrary power from the President, to make a decision entirely his own.

Mr. SHANLEY. You agree with that section there, then?

Mr. BINGHAM. Yes.

Mr. SHANLEY. That is all.

Mr. FISH. Mr. Bingham, are you opposing the Thomas amendment?

Mr. BINGHAM. Yes, sir.

Mr. FISH. I assume therefore you are opposing it on the basis that it establishes the status quo just the way the Versailles Treaty did.

Mr. BINGHAM. Yes.

Mr. FISH. And for the same reasons you would oppose that, having us be the enforcing agent of the status quo?

Mr. BINGHAM. Yes.

Mr. FISH. That is of the imperialistic nations?

Mr. BINGHAM. Yes.

Mr. FISH. That is what I thought.

Mr. IZAC. Now, Mr. Chairman, that we may get the idea that the witness wants us to have, is it not true that you chose some method by which we will know that war is in existence somewhere on the face of the earth, and that after that has been determined, then you want us to have complete freedom of action, as to our future actions regarding that war. Is that correct?

Mr. BINGHAM. Yes. I come back to my emphasis again on the fact that the present neutrality law, by leaving the discretion in the President, has in fact made it something very different from a neutrality law. It has made it an instrument for imposing the President's idea of national policy, and insofar as it would continue to be violated in spirit by the President through his discretionary power, it becomes a dead letter.

Mr. IZAC. But after war has been found to exist, then you want us to have complete freedom of action?

Mr. BINGHAM. Yes; in the neutrality legislation, or in any neutrality legislation, it is designed to keep our freedom of choice during the period that war is going on abroad.

Mr. ALLEN. Mr. Bingham, with reference to the present Neutrality Act,<sup>1</sup> what provisions would you amend or eliminate altogether—the first provision or the second? The first provision gives the President the right to declare a state of war and then automatically prohibiting the sale of arms and ammunitions; and the second, the cash-and-carry provisions on the contraband articles. Would you want to amend or eliminate those provisions altogether?

Mr. BINGHAM. I want to amend the first provision along the lines of the Nye-Bone proposal. As for the cash-and-carry provisions, I think that they should certainly be retained as one element in the maintenance of our freedom of choice.

<sup>1</sup> See p. 413.

I believe that there should be specific provision, although that may be in the course of being worked out through executive action, with regard to the liquidation of foreign holdings of securities in this country.

I believe that the act should be further amended to prohibit the presence of American shipping in war zones, and there again that seems to limit our action, but actually it protects our freedom of action by protecting us from incidents which would embroil us against our will.

Mr. KEE. I beg your pardon. How would you determine the limitations of the war zone, in these modern times?

Mr. BINGHAM. I am not prepared to answer that, that is a technical question.

Mr. KEE. I mean by that, you can understand that that would be a very pertinent thing to determine, just where the war zone is, and the extent of it, because we would have to make definite our orders to our vessels to refrain from entering those zones, so therefore, we would have to limit and define them, and what method would you suggest?

Mr. BINGHAM. I stated in the beginning that I am not an expert on technical features of this bill. I am trying to express a point of view, and I am not prepared to say what method ought to be used. I certainly would not give the President full discretion in such matters, because there again I think that you are limiting the freedom of choice of the Congress and the people.

Mr. KEE. You have to permit somebody to determine them, and would you permit the belligerents to determine and announce to the world just what sections were war zones?

Mr. BINGHAM. I would prefer to have Congress or a congressional body do it than to have the President do it.

Mr. JARMAN. Referring to your freedom of choice idea, would you carry that as far as the Ludlow amendment?

Mr. BINGHAM. I am not prepared to answer that here. I would be inclined to favor the Ludlow amendment, but I think it is unfortunate to tie it in too closely with discussion of a specific Neutrality Act. I do believe that the people ought to have the ultimate decision as to whether they go to war or not.

Mr. JARMAN. I do not believe that it is the disposition of anybody here to tie it into the Neutrality Act; I do not think that is possible, but we are trying to avoid war, and it is our purpose to procure all of the information we can to assist us in enacting legislation toward that end; that is what prompted the question.

Mrs. ROGERS. I gather that you feel it is wiser for us to keep out of war no matter what happens in Europe and the Far East; am I correct in that?

Mr. BINGHAM. No, I am not prepared to be categorical about it, I do not think that we can foresee all eventualities. I certainly believe that we ought not to take a clear-cut stand in the beginning, lining up with one group of powers; and that we should attempt to protect our ability to make up our minds as events occur, rather than being the victim of circumstances.

Mrs. ROGERS. Do you feel that Congress should stay in session all the time, in the event of a foreign war, in order that we might act quickly?

Mr. BINGHAM. No; I think that that might be a strain on the country, and might be a strain on the Congress.

Mr. CHIPERFIELD. Mr. Bingham, do you believe in keeping our American ships from trading with belligerents, under this cash-and-carry provision?

Mr. BINGHAM. Yes, as I understand it that is the chief purpose.

Mr. CHIPERFIELD. Do you believe that that could be accomplished by placing them at their own risk? There is a bill suggested allowing them to participate, but notifying them ahead of time that they do so at their own risk. What do you think of that idea?

Mr. BINGHAM. I think that that is a poor idea, but on the other hand that raises the question of what are you going to do about the shipping industry. It is going to be frightfully dislocated in time of war, just as many other industries are, and I think in planning for neutrality legislation, we should at all times plan to compensate for those dislocations.

In the case of shipping it would mean being prepared to subsidize the shipping industry directly, so as to compensate for the loss of their war trade, and carrying that principle through to the whole problem of the stimulus to particular industries, and the production of particular agricultural products in this country in time of war, ought to be constantly thinking in terms of freeing our country, freeing our cotton industry, and our wheat growers and our manufacturers, from dependence upon foreign trade.

That means an increasing measure of economic controls to expand the domestic market, and make us less dependent on the foreign markets.

Mr. FORD. Mr. Bingham, you say that you represent Common Sense Magazine, and that is about the best sounding thing that I have heard around this country in a long time, and then you advocate that we have jobs for everybody.

Now, if you represent Common Sense Magazine, and advocate that, certainly you can tell us how to accomplish that purpose. You would be the grandest man in this country if you could just tell us how to accomplish what you advocate.

Mr. BINGHAM. I happen to be egotistical enough to think that I do have a pretty good idea, but I do not think this is the occasion to present my ideas here. I might state parenthetically, that I published a book this week, which deals fairly fully with the question of supplying jobs for all.

Mr. FORD. You will also be a hero if you can tell the cotton and wheat farmers how they can dispose of their surplus.

Mr. KEE. I noticed a moment ago that you threw quite a bouquet at the dictator governments by saying that they had solved the question of unemployment. Would you mind telling us how that was solved, for instance, taking a specific case—take Hitler?

Mr. BINGHAM. I would say in one word that the way they solved it was by government spending.

Mr. BLOOM. Are we not doing that over here?

Mr. BINGHAM. Not on such a scale. Look at the scale that they are doing that on in Germany.

Mr. KEE. They have deprived a considerable group in that country of employment, have they not, and confiscated their property and took their jobs and filled them with his class of people?

Mr. BINGHAM. That is true.

Mr. KEE. You would not advocate that?

Mr. BINGHAM. I certainly would not advocate that.

Mr. KEE. You would not apply that to the solution of the problem here?

Mr. BINGHAM. No.

Mr. FORD. Has he not also solved the problem by drafting them into service, into the army and things of that kind?

Mr. BINGHAM. That is a partial explanation.

Mr. RICHARDS. And armaments spending?

Mr. BINGHAM. It has been almost entirely armament spending.

Mr. BLOOM. You would not want to apply that over here, would you?

Mr. BINGHAM. You asked me what was the explanation of their ability to employ everyone, and I said that it was spending; I certainly do not advocate spending it on concentration camps and armaments.

Mr. KEE. You seemed to speak of that fact with approval.

Mr. BINGHAM. I approve of abolishing unemployment.

Mr. KEE. But you do not approve of the methods used?

Mr. BINGHAM. There are certain aspects of that method, the economic techniques of adequate public investment which I approve of, and I certainly do not approve of the political methods employed.

Mr. VORYS. Do you approve of the freedom of choice left to the citizens in the dictator states?

Mr. BINGHAM. Most certainly not, there is no freedom of choice left.

Mr. STEARNS. Granting for the sake of argument that they have by economic planning done away with unemployment, have they actually improved the condition of their people?

Mr. BINGHAM. No; I believe not; their spending has been almost entirely on armaments, which obviously does not improve their position.

Mr. BLOOM. Are there any further questions?

May I ask you this question? Do you believe in a rigid neutrality law, or do you believe in a flexible neutrality law?

Mr. BINGHAM. I think my basic principle of retaining freedom of choice means a flexible neutrality law, but on the other hand in the discussion that I had a moment ago, about when the law is to go into effect, if you leave it so flexible that it is left to the discretion of the President whether or not it is to be imposed, you may actually have thrown the legislation away. So that I am inclined to believe that the provisions as to when it should be applied should be rigid, but the method of application should be as flexible as possible.

Mr. BLOOM. Then as to when it is to be applied, then it would be mandatory upon the President to declare that a state of war existed, within a certain period of time, is that not right?

Mr. BINGHAM. I believe so.

Mr. BLOOM. What period of time would you suggest?

Mr. BINGHAM. I believe that one of the proposals advocates 80 days, I think that that would give him time.

Mr. BLOOM. That is the Pittman resolution, which he has amended now and taken all time limit out of it, as amended now.

Mr. BINGHAM. That would seem to restore discretion to the President.

Mr. BLOOM. Well, if we are to have, as you say, a flexible neutrality law, to whom shall the right go to, with reference to declaring the flexibility of it, or when should it become operative? Someone must have the right, if it is to be made flexible.

Mr. BINGHAM. But you make it so flexible that it is no law at all. You have the whole question to be decided over again as to whether you want neutrality legislation at the critical moment when you need it.

Mr. BLOOM. But you say that it should be made flexible, and it should be made mandatory upon the President to declare that a state of war exists; that is right, isn't it?

Mr. BINGHAM. Yes.

Mr. BLOOM. All right, then there must be some time limit.

Mr. BINGHAM. I think that that is a technical question, which I have no intelligent opinion on. I should say that 30 days would be too long.

Mr. BLOOM. Then, if there was a state of war to exist between Rumania and Slovakia, then what time limit should apply there?

Mr. BINGHAM. I should say off-hand that 10 days might be a better period, but I have not given the matter great thought.

Mr. BLOOM. He has got to work very fast to get all of that information, and to state that a state of war exists, in 10 days.

Mr. BINGHAM. I do not think that that is very difficult to decide when a state of war exists.

I would like to add one general emphasis before I leave, going back to the argument that Mr. Stewart has been presenting, and that of other advocates, that we should put our support behind victims of aggression. I would like to emphasize again how dangerous it is for us to become defenders of the status quo.

We believe that England and France are democracies, and yet there is no doubt that if war breaks out in Europe in the next few months, it is not going to be over the issue of French or English democracy. It is going to be over the question of French and British possessions, which Germany and Italy want, and there can be no question of morals involved. It will be a question of crude national interest in the aggression of the nations that consider themselves unjustly treated, the "have not" nations against the nations who they feel have too much.

While the Thomas amendment and the Geyer resolution are ostensibly flexible, and would leave it up to a vote of Congress whether or not an aggressor was to be named, Mr. Stewart was clear in feeling that the resolution would commit us to a stand against the aggressor nations, and it would be considered support of the British and French Empires, and he believes that that would make war less likely. I am not at all convinced that it would make war less likely, I believe that there is an equal argument to be made that the only way to avoid war in Europe is to permit an orderly reconstruction and retreat of the imperialistic powers from the position of the impossible status quo, which is in fact threatening the peace of the world.

We cannot permit ourselves, or we ought not to permit ourselves to be aroused to too great a sense of indignation against aggression,

when the reasons for that aggression as one looks back over history, are simply previous acts of aggression which make the British and French empires powerful "have" nations, and in many instances have resulted in the continued oppression by England and France of people subject to them, as in India and Africa.

Mr. BLOOM. You believe to name the aggressor nation is rather a serious thing, do you?

Mr. BINGHAM. I do; I do not see how one could retain one's freedom of choice, if one has already taken sides in any conflict.

Mr. BLOOM. For the record you stated that you did not like the word "isolationist." Would you kindly give another word instead of "isolationist."

Mr. BINGHAM. I have not given any thought to the question of a word. The reason I am not an isolationist is because I know this country cannot live to itself, and I know that the world must ultimately move toward a greater international commonwealth of nations.

Mr. BLOOM. What would you call yourself if you do not want to call yourself an isolationist?

Mr. BINGHAM. I might call myself an "anti-collective-security-ite."

Mr. BLOOM. And what is that?

Mr. BINGHAM. That I am against the theory of collective security against aggression, because that comes down in practice to the maintenance of the status quo, and it is an impossible status quo.

Mr. STEARNS. Do you not think that in international affairs just as in individual affairs, it makes some difference what method is used in attacking the status quo?

Mr. BINGHAM. Yes, it does. It makes a lot of difference whether you declare a war or whether you just start in bombing the cities without declaring war, but that may be a comparatively minor matter since you are going to bomb the cities anyway.

Mr. STEARNS. I mean whatever we think of the status quo, in international affairs can we afford to sanction it?

Mr. BINGHAM. No; we cannot.

Mr. JOHNSON. What if your neighbor across the street thinks that you have more property than he has, and that your father did some of his folks wrong about 40 or 50 years ago, and he goes over and sticks a six-shooter in his face and he says, "You have, and I have not. Give up." Is that morally right or morally wrong?

Mr. BINGHAM. That is morally wrong, but I consider it is irrelevant to the subject of international relations.

Mr. JOHNSON. Do you think that it is applicable to the rule that you cited, in going out and taking what you want? I thought that you said that there was no moral principle involved.

#### STATEMENT OF BENJAMIN C. MARSH, EXECUTIVE SECRETARY OF THE PEOPLE'S LOBBY, INC., WASHINGTON, D. C.

Mr. MARSH. My name is Benjamin C. Marsh, the executive secretary of the People's Lobby, with offices here in Washington. I will say that I speak chiefly for myself, although I think that I shall represent largely the viewpoint of our members, and let me give you an illustration.

I personally vigorously opposed what I regarded as the illegal action of the President in putting the embargo on Spain, and refus-



ing to lift it. I did not do it for the Lobby until we took a referendum vote last December, and of those who replied, only 2 percent were not actually in favor of lifting the embargo on Spain, and of that 2 percent a few said that they did not know, but most did not favor retaining the embargo.

I would like to say that for 21 years I have been before committees of Congress, and I am very much pleased with the attitude of the committee on this issue. They are alert and informed and interested in the issue, and I compare it with the conditions 22 years ago, early in 1917, when there was no such expression permitted, and perhaps not offered.

Times have moved, possibly because we sent a Messiah to Versailles after we cleaned up Europe, and he did not get them out of a mess. But anyhow we have learned a lot. My parents were foreign missionaries, Congregational missionaries, and they were stationed in Bulgaria, and I have been back and forth to Europe a great deal. I have been eight times to Europe since 1928, so you will forgive me if I take this text: "If Thou, O Lord, should'st mark aggression, O Lord, who would stand?"

That goes for all of the big "have" nations, and I want to read a short statement, though I will not read much from these documents. I got a warning and assure you that I will read only a few quotations.

Mr. RICHARDS. That is a good text. What part of the Bible does that come from?

Mr. MARSH. I did change one word. The word is "aggression" for "iniquity." But apparently the greatest of all iniquities is aggression up to date, but if you have been the mother of aggression like Great Britain for three centuries, it becomes sanctified and to be protected by American money, if we are damned fools enough to do it. And I think that we are not.

And, by the way, I just got yesterday a farm paper with 2,400,000 circulation, since they have combined the Farm Journal and the Farmer's Wife, and I would like to read a brief statement of what they say about Congress, if they can get us into a World War. It may not be reassuring to you, but it is informing.

Mr. ALLEN. Are you going to read it? You said that you were going to.

Mr. MARSH. I will read it into the record.

Mr. BLOOM. You want this in the record?

Mr. MARSH. It is loaded.

Mr. BLOOM. The record is already loaded, too.

Mr. MARSH. If we can confine ourselves to that sort of loading, instead of loading our boys on the ships to save somebody's investments, we can stand that, and God knows it is cheaper.

Mr. BLOOM. I will pass this around to the committee, and they can read it.

Mr. MARSH. I would also like to read my statement. The title of the statement is "Economic systems—not neutrality the issue." It is all nonsense to talk about neutrality. It has gone, and no nation can be neutral any more. We might as well face it. The nations that have the navies, the nations that have the merchant marine—do I need to enumerate them—are the ones that are heading the game today—in other words, the "have nations—and if we say that we

are going to be neutral we merely give the advantage to one or the other.

Woodrow Wilson was eternally right when he pointed out that the only way to prevent war is international organization. We did not do this and we are paying the penalty.

The various measures before Congress designated as "neutrality bills" are not correctly so-called. The term "aggressor nation" is a misnomer. Every major nation is an aggressor nation, and most small ones want to be. In a world run for the profits of the property owner, aggression is the handmaiden of commercial rivalry. The real conflict is an irreconcilable one between production of profits for a few and meeting the needs of all. That goes everywhere. Geography does not make any change in economic laws.

The present threatened conflict in Europe is between entrenched aggressors, Britain and France, which have stolen a large part of the habitable area of the world, and of its natural resources, and nations which want to do the same.

The financial interests of the economic royalists who run America are tied up with Britain and France, but that does not give the President any right to commit this nation to either past or present aggressions. His opposition to a war referendum was patently disingenuous, and his attempt to commit this nation to one side or the other is moral treason. His insistence on the illegal embargo on loyalist Spain and his opposition to lifting it is largely responsible for the recent advances of Germany and Italy and was a big encouragement to Japan.

Think of the irony of helping these aggressor nations by letting them out in Spain, and then turning around and saying, "You are aggressor nations; we do not like you."

You remember that somebody described "T. R." as half St. Vitus and half St. Paul. Well, in a desperate situation like this, you want to eliminate the St. Vitus altogether. We have given great encouragement in the shipment of supplies to those three nations which the President denounces as aggressors.

The President shows himself by his record, and I do not want to make this personal, but I have observed things here and in Europe for some 50 years, and the President's record shows him to be about the most dangerous person in the world to be given discretionary powers in foreign affairs. Spitfire diplomacy is very dangerous in an open powder keg.

Mr. BLOOM. You are not a Democrat?

Mr. MARSH. I worked for Wilson twice. The second time because "he kept us out of the War," and I have been busy asking God to forgive me, ever since.

We need a President who will not take orders from either British finance imperialism or the Vatican, even when they coincide.

Lord Londonderry in May 1933 wrote this about the Disarmament Conference:

The great difficulty now is not so much the acquisitive states—I mean those who were despoiled by the treaty, although their case is hard enough—but the states which have acquired territorial extensions and are unwilling to cede anything.

The British Labor Party has urged international control of colonies, and mandated areas, and of natural resources, and of ocean-

borne commerce, and socialization at home. The British Government insists upon maintaining British and French imperialism, with all that that means. Will we back British labor or British imperialism?

A general European war would not be won by either side, nor by an outsider like America. If Britain and France got the draw, Russia would probably join Germany in a "preventive" continuation against aggressors; if Germany and her Adriatic boot won the draw, Britain and France might try to get Germany and her pal to join them in ganging up on Russia.

This is my estimate, and I cannot say definitely, but I talked with people from all over Europe this past summer in the Secretariat of the League and the International Labor Office in Geneva, and I would like to read the conclusions of this book by Professor Frederick L. Schuman, of Williams College. The title is "Europe on the Eve." It is only a few lines.

The European future rests either with Moscow or with the Berlin-Rome-Tokyo triangle. If the red and black totalitarianism declares a truce, the Fascist triplex will sweep the Anglo-French colonial empire from the map of the Eastern Hemisphere. If they embark upon a death grapple for world mastery, Britain and France will be impotent spectators, and unless the bears and the wolves have literally destroyed one another, they will become victims of the victor. Europe, Asia, and Africa will live during the coming decades under the aegis of Fascist world hegemony or of Communist world revolution, or perhaps of one followed in the fullness of time by the other.

I do not entirely concur in that, but it is extremely probable that we are going to face something like that situation.

I am not going to end on a negative note. I am going to make a suggestion which I started 10 years ago, just after Hoover was elected in 1928, when I asked my friend Gifford Pinchot to act—and I do not belong to either political party. Maybe I am too honest and maybe I don't need a job bad enough, but anyhow I do not belong to either political party.

Mr. Pinchot got together a group of labor leaders, important statesmen, farm leaders, church leaders—and requested President Hoover to call an economic conference to deal with the control of natural resources. It was not a novel thing, as the League of Nations Secretariat had advocated that on the basis of a report made by an Italian in 1922.

President Hoover did not touch it, and I have asked Mr. Pinchot to have the matter brought up during this administration, and he thought that it was not practicable. But you have got to have world organization, because as I grow older I become more convinced, more than my friend Bingham—although he is a remarkably clear student, as I am trying to be a student—that you have got to have world organization, and you have got to accept, I think, the thesis of this book by H. N. Brailsford, a British publicist, published in 1934, *Property or Peace*.

You cannot have the profit system and have peace—take your choice. That is not original. You may remember that some years ago somebody said that it is easier for a camel to go through the eye of the needle than for a rich man to enter the Kingdom of Heaven.

Mr. BLOOM. That is a correct quotation, and the first one was not.

Mr. MARSH. The first one was correct, except for the—what shall I call it—the amplification.

Mr. BLOOM. The other was flexible, this is rigid.

**Mr. MARSH.** Yes. Why not rid ourselves of the hypocrisy of talking about the democracies of Britain and France?

Through the kindness of our embassy in Paris I was able last summer to get an interview with a very high official in the Ministry of Colonies, and you may remember that the Minister of Colonies, Georges Mandel, is rather an extreme imperialist. While waiting to see this gentleman, and I do not want to mention his name—I do not mention names for the reason that so many people are good enough to give me information—but while waiting there I picked up two copies of a magazine, and here they are. They are making a bold bid for French imperialism. I am going to pass this around if you will let me. It is a semiofficial publication.

**Mr. BLOOM.** Are you going to connect this with neutrality?

**Mr. MARSH.** I at least am going to attempt to. I do not want to be sued for breach of promise. You will have to decide whether I do or not.

A British officer, Lord Roberts, wrote something that I put in a little pamphlet, which I suppressed after we got in the World War, because I thought that the outside was better than the inside. Here is what the British officer said:

How was this Empire of Britain founded? War founded this empire—war and conquest. When we, therefore, master by war of one-third of the habitable area of the globe, when we propose to Germany to curtail her navy or reduce her army, Germany naturally refuses, and pointing not without justice to the road by which England sword in hand, has climbed to her unmatched eminence, tells us in the language of diplomacy that by the same path Germany is determined also to ascend.

Then I bring that up to date. The British Labor Party and the British Trade Union Congress in October and September of 1937 made this statement, on which they agreed:

The background of the present situation is the history of the past 19 years since the end of the Great War. It includes the Treaty of Versailles, against many of the provisions of which the Labor Party made protest, which later events have abundantly justified. The Treaty of Versailles and the methods of its imposition have formed the basis of Nazi propaganda, with all of its exaggerations, to which in large measure the present international situation is due.

Here is what Jerome Frank, now a commissioner of the S. E. C., said in his recent book:

Unless and until Europe rids itself of that English-fomented European disunity, America is helpless in the task of helping Europe or of promoting world peace.

I could go on down the line and quote from one authority after another. What are we asked to do? We are asked to say whether we will or will not ship arms or anything else. I recall talking with a Southern Senator some years after the World War, and he told me an incident.

He said—

During the World War I went down to my State, and I saw the cotton piled up there, and I wanted to ship some of that cotton, but I found that I could not do it.

And then he said—

I then wanted to send something to a friend, and I was told to go and see the British Ambassador, and I went and saw the British Ambassador, and he said, "Certainly, Senator, you can send that package, we will be glad to have it."

Then the Senator said to me—

I made up my mind, so help me God, never was Great Britain ever again going to tell an American citizen whether that citizen could or could not ship anything abroad. We still propose to be Americans.

**Mr. BLOOM.** That was during the war?

**Mr. MARSH.** Yes; the incident.

Ten years ago this summer I was at an International Anti-Imperialist Convention at Frankfort-on-the-Main, directed against British imperialism, French imperialism, Belgium imperialism, and American imperialism. They had not gotten around to picking out Germany and Italy as the goats, and, gentlemen, I don't exonerate what they have done, but the inevitable happens. We might as well face the fact, that Hitler is doing what has got to be done, if Europe is not to go down in dull despair. They have got to have a United States of Europe. Do I like his methods? No. But as a realist I recognize with mechanization gone as far as it has, and invention, that if the democracies do not do the right thing when they have the chance, and they had it at Versailles, some great power is going to arise, just as our Attorney General said in a speech the other day, you have got to end unemployment or walk into a dictatorship. I am paraphrasing, but that was the substance of it.

In Europe there is the recognition of the inevitability of what Hitler is doing. They do not like the methods and I do not. I talked with a number of people in the Secretariat of the League of Nations, and put several serious questions to them. One was this: "If you can maintain the peace in Europe for a few years, can you reorganize Europe?" and they were nearly unanimous that they could, and equally that it has got to be done.

There was another question, and the answer confirmed what I learned in Poland in 1934 and 1935, "Suppose that Germany and Italy agreed to stay within their boundaries as of this time, would that in any way insure the peace of Europe?" and they said, "Of course not," that they cannot have peace with the present line-up of Europe. Most of them were rather scared that Poland would take the initiative, if Hitler did not beat that country to it.

Do they blame anybody? When you get past 60 you do not try to blame anybody or discover who is to blame. You try to discover what are the conditions that lead up to any action. I don't attempt to blame anybody, it is up to us to find out what are the reasons for what is going on in Europe today, and I think that you can put it as Mr. Bingham did, and as I think Mr. Stewart feels, although he did not express it this morning, that the substance of Mr. Brailsford's book, *Property or Peace*, is correct. Mr. Brailsford is very pessimistic about what is ahead of us, and because he is an informed man he inevitably is so.

**Mr. RICHARDS.** Granting everything you say to be true, what we are mainly concerned with here is whether or not we are going to do something to keep the United States out of war.

Now, what is your suggestion about that?

**Mr. MARSH.** I am coming to that. I thought that you might be shocked at my suggestions if I did not lay the ground work for it.

The head of one of the great wire services in a European capital told me this past summer that Roosevelt was keeping out of every-

thing publicly but he had got his finger in every situation in Europe and was trying to tell them what to do.

I have two or three specific suggestions. One is that the President will earn his salary if he will get us out of the mess in America without getting us into a mess in Europe. The President should not be permitted to make any declaration on the foreign policy of the United States until he has met with the members of the Senate and the House committees charged with the conduct of international affairs.

I do not say that he has to get your approval, I admit that politics would come in, but I submit that Mrs. Roosevelt, the brilliant woman that she is, was, in my judgment, mistaken when in opposing the referendum on war, she said that the people could not be permitted to know what was going on. I am paraphrasing, but that was the substance of a very able and well-written article in *Liberty* opposing the Ludlow amendment. I think that we drop partisan politics at the water's edge, or we are inclined to, but, in my opinion, the elected representatives of the American people and the committees of Congress charged with the conduct of foreign affairs, have a right to know whether you are being jockeyed into a position, wherein if you object to declaring that a state of war exists, you will be called a traitor. You know it and I know it, and that is what is being done.

Mr. KEE. That was Mrs. Roosevelt's position, that she urged that it be left to the representatives, elected by the people, rather than to take a referendum or popular vote.

Mr. MARSH. But she was an accessory to the last election.

Mr. KEE. That was her position, that it be left to the representatives.

Mr. MARSH. I would go further and let the people vote on it, because I think that they can think on it clearly.

Mr. BLOOM. I would suggest that you stick to the legislation the committee has before it.

Mr. MARSH. You cannot create neutrality—I am trying to make that clear. It is a figment of the imagination. Suppose that you arm China today, and suppose that you arm Britain and France today. Do you guarantee that they will not be your enemies tomorrow?

If you know anything about the world, you know there is only one navy in the world that we need to be afraid of and that is the British Navy, and they know it, and you know that we are going to have a show-down with them in South America. Of course, Germany and Italy are going to be out of the running, so whenever you ship arms you say that you do not do it to an enemy, but in the present world set-up every important nation is a potential enemy of the United States.

They do not like our doctrine of hemispheric selfishness, known as the Monroe Doctrine. We assume that God Almighty reserved the Western Hemisphere for our financiers to exploit.

Secondly, do not let Bill Bullitt, and I like him very much and met him in Moscow a couple of times, and do not let Joe Kennedy or any other of those Ambassadors make speeches anywhere and tell the world what America is going to do. They are paid to find out and let you folks decide what American people are going to do, and do

not let those boys overearn their salaries by telling the world what America is going to do.

Mr. BLOOM. Would you write that into a neutrality act?

Mr. MARSH. I would not call it neutrality.

Mr. VORYS. Have you got such a bill as the one here now?

Mr. MARSH. I am not the White House, and I do not hand you bills and tell you how to vote.

Mr. BLOOM. I would suggest that you leave all personality out; we are trying to write a neutrality bill, and as you say, neutrality and partisanship does not mix, politics stops at the water's edge, and I do not believe that there is any difference in this committee or the Foreign Relations Committee of the Senate. There is no partisan politics in neutrality.

Now, if you have any amendments to suggest, let the committee have same, and leave personalities out because it does not help at all.

Mr. MARSH. I was using personalities by way of illustration, and pointing out one reason why I did not feel that it was appropriate for me, not being a lawyer, to draft a bill. You have got mighty good draftsmen here, though maybe it would be better not to have lawyers do it, but I am still modest enough to say that the lawyers ought to be able to get it by.

Here is the third proposal. You saw the President's statement to Hitler and Mussolini the other day, asking them if they would agree not to do certain things. Well, I want to present another brief article by Mrs. Anne McCormick which appeared in the New York Times from Paris, a dispatch, on Monday, of April 17, in which she points out what a bad feature it was. Because it singled out those two countries as responsible for conditions in Europe, those two leaders, and she is very friendly to the administration, and has been continuously.

My third and final suggestion is this: It is not too late yet to have a world economic conference with the cards on the table, to be the first one of this sort. I recall spending 20 minutes in London with Secretary Hull at the Economic Conference in 1933. You remember that it was rather hectic, and I cannot quote him, but in effect he has since pointed out the difficulties of any international cooperation with the New Deal policies which raise the cost of production.

Secretary Hull has done very valiant service in trying to restore international trade, but it is futile or most difficult under our policies and world development.

We have got to recognize that the mere fact that natural resources are located in China or the Americas, and the world needs them, or in Russia, and I thrashed this out with them over there twice, but the fact that these natural resources are located there and the world needs them, does not justify exploitation of those natural resources by the citizens of the respective countries where located or by the financiers of other countries which would exploit them.

I ask myself this question, and you can ask yourselves this question: If America were in the position of Japan, or of Italy, or of Germany, would we be doing anything else today except what they are doing. I admit that it would be wrong if we did it, but we have been a little imperialistic at times.

Therefore, I hope that those two committees—and I am going to present this more in detail on the other side, I hope next week—I hope that you will consider that we agreed to an economic conference which has been urged by the Quakers recently, and urged by the National Peace Conference, and by other peace organizations, and invite the dictator nations.

Mrs. McCormick's message says that the President's message was an appeal over the heads of Mussolini and Hitler and made their people mad. We are not going over the heads of those leaders. I imagine that the two dictators are pretty popular, rightly or wrongly, but we are pointing out that we do not set ourselves up as the wealthiest nation in the world, to back up the other wealthy nations against the nations whose resources and capacities are limited.

It is not correct, in my judgment, to say that we cannot prevent war. I doubt if any neutrality legislation will affect the situation one way or the other, frankly.

In Europe they do not want to go to war, because they know that they are going to have revolutions no matter which side has the draw if they go to war, and I close with that.

Mr. VORYS. Mr. Marsh, the three points that you suggest have much that might be worth thinking over, but are they not addressed to the wrong end of Pennsylvania Avenue?

All three of your suggestions have to do with the Executive end of foreign affairs, do they not?

Mr. MARSH. No, Mr. Vorys. At least I did not make myself clear. The Congress can determine what the functions of the President shall be in the conduct of international affairs, and Congress can decide whether any ambassadors, even outstanding ones, like Kennedy and Bullitt, can commit America to anything, you can let them know what they can say for world consumption, and what they cannot say.

You can also request the President, or take the initiative calling such a world economic conference, as the British Labor Party calls it, on ending the economic causes of war. I know that it cannot be done overnight, but it is a step in the right direction, I believe.

I think that those are the functions of the Congress.

Mr. BLOOM. Well, Mr. Marsh, the committee appreciates very much your appearing before it. Thank you very much.

(Whereupon the committee recessed at 12:45 p. m., until 10 a. m. the following morning, April 20, 1939.)



## AMERICAN NEUTRALITY POLICY

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THURSDAY, APRIL 20, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order. We have with us as a witness a former Representative in Congress from the State of Nebraska, Mr. Henry C. Luckey. Mr. Luckey has a statement that he would like to read, and he will be pleased to answer any questions after that.

### STATEMENT OF HON. HENRY C. LUCKEY, LINCOLN, NEBR., MEMBER OF THE SEVENTY-FOURTH AND SEVENTY-FIFTH CONGRESS

Mr. LUCKEY. In order that my position may be made clear, I wish to state that I do not believe in the principles or philosophy of nazism, fascism, or communism. I deplore the reign of terrorism and injustice running riot. My heart bleeds as I see how deceit, chicanery, injustice, and unbridled selfishness are stalking through the world. I believe that democracy is the best form of government by which the people can realize the greatest good for the greatest number and under which the individual can secure the greatest opportunity and freedom to serve both God and man. Its fundamental tenet is "Equal opportunity for all and special privileges for none." Workable democracy should follow the principle "Do unto others as you would have them do unto you."

In dealing with the subject under consideration, we must not lose sight of the moral principles involved. As some one has well and truthfully said:

International ethics is, therefore, important not merely in relation to world peace, but as a guide and norm for nations in all their dealings with one another.

These facts must be kept in mind as we are attempting to legislate to ameliorate the ills of a sick world. A careful study of the present unhappy state of world affairs reveals the fact that these ills are not all of yesterday's origin. In many instances their cause traces back into the distant past. Like the good physician or the skilled surgeon who tries to ascertain the cause of the malady before he prescribes or operates, so the wise legislator and statesman will study the historic background of the present national and international ills before he prescribes his legislative remedy.

No reputable historian today holds any one single nation solely responsible for the origin of the World War. Its causes were many and intricate. (See *The Origins of the World War*, by Sidney B. Fay.)

The present European struggle grows out of an attempt by England and France to maintain the present status quo on the one hand and an attempt by Italy and Germany to modify the status as fixed by the Versailles Treaty and post-war developments. We are passing through a period of profound readjustment which may bring about another European war. It is a struggle between the "have" and the "have not."

The American people are opposed to our involvement in any foreign war. They are thoroughly disillusioned as to the efficacy of making the world safe for democracy by another war. They believe that it is none of our business to settle the real-estate squabbles in Europe. They feel that the European countries are perfectly capable to do this themselves if they so desire.

There is strong evidence that we are again about to repeat the tragic fallacy of permitting ourselves to be drawn into another war. Any well-informed and intellectually honest person knows and will acknowledge that we are being deluged by a flood of propaganda just as we were deluged during the days of the World War. Powerful financial, industrial, and political interests, both in America and from abroad, are exerting every effort to again draw us into the European conflict. We are bombarded daily by screaming headlines in our newspapers. Columnists and radio commentators are vying with each other to fan the flame of hate and rouse the martial spirit. Officials in high places are moving in mysterious ways and are making ominous suggestions and statements. New slogans are coined daily to put over the objectives of the movers behind the scene. The effect of all this will be to create in the minds of the people, just as it does under dictatorships, the will to fight. It took over two years of the most intense well-organized and well-directed propaganda before the American people could be pushed into the World War.

To show you the brazenness of those working behind the scene let me give you an interesting sidelight on America's part in international cooperation as found in the January 6, 1938, issue of *G. K.'s Weekly*, a British publication, under the title "Can We Rope in America?" The article states that getting America lined up to fight British interests in the Orient is the most immediate practical problem in British politics. I want to quote just a few lines from that article.

Mr. JOHNSON. What is the date of that article?

Mr. LUCKEY. January 6, 1938—a year ago last January.

Mr. JOHNSON. Last January.

Mr. LUCKEY. A year ago last January.

I quote from this article:

It is commonly said up and down Europe that we can make the United States do what we like. We got the United States into the Great War on our side and, what was more extraordinary, we managed in the debt business to make Franco the villain of the piece. We got them—the United States, to feel with us against modern Italy, and we have got them to talk of ourselves as a "democracy," which is prodigious.

Mr. BLOOM. Who is saying this?

Mr. LUCKEY. The article appears in *G. K.'s Weekly*, a British publication published in London, and was written by Hilaire Belloc, one

of the foremost British writers, an Englishman, and a well-known author.

Mr. BLOOM. What is the circulation of that, do you know?

Dr. EATON. Who is G. K.?

Mr. IZAC. G. K. Chesterton. He is dead.

Dr. ETON. Oh, it is a dead man speaking.

Mr. BLOOM. This is from England.

Mr. LUCKEY. I do not know who the proprietor is.

Mr. BLOOM. All right.

Dr. EATON. Mr. Chairman, may I ask the witness if he considers this publication has a wide circulation and wide influence?

Mr. LUCKEY. It was widely quoted here in the United States.

Mr. BLOOM. It is very interesting. I do not doubt it was quoted.

Mr. LUCKEY. Yes; I am still quoting from the article:

The advantage we have in working American opinion and policy are very great, and they have been used in the past with so much success that those who think we shall win the trick have much to say for themselves. American opinion is inflammable, and just now we got up the cry, "To hell with the Hohenzollerns and Hapsburgs," so we might get up a slogan for the Pacific. We are about halfway to our goal. Shall we be able to reach it? As things now stand, our chances are to put it in American, about 50-50.

This article shows what we have to contend with.

Mr. JOHNSON. Is the article an editorial or is it a contributed article by some reader?

Mr. LUCKEY. It is an editorial.

Mr. JOHNSON. You do not happen to know the editor?

Mr. LUCKEY. No. But the article was written by Hilaine Belloc, an author and English writer.

The American people are apprehensive that our involvement in another war will mean dictatorship at home and destruction of our democratic form of government. Modern warfare is such that dictatorship is necessary for its efficient conduct. Already plans to this end have been laid and are being perfected.

To eliminate, as much as is humanly possible, our involvement in another world conflagration, the American people are demanding neutrality legislation. The problem before us then, is how best to keep America out of war. This should be the essence and objective of any neutrality legislation.

To this end various approaches are suggested. Some contend we should cooperate with the so-called democracies to stop the aggressors and therefore repeal the present law altogether. Others demand its modification to give the President more discretionary power either in the administration of the law or the right to name the aggressor. To do either of these would involve great danger. Our national safety depends on strict mandatory neutrality. To take sides will mean ultimate involvement in any conflict. To put this power into the hands of any one man would be exceedingly dangerous as past history proves.

Theoretically, the Congress has the sole power to declare war, but in practice, the policy as formulated and carried out by the State Department and the President, is the dominating factor whether we enter war or stay out. Historic evidence attests the fact that four persons were primarily responsible for our engaging in the Spanish-American War, which flung into our lap the Pacific problems and the Philippine Islands. By the propaganda of the Hearst and Pulit-

zer papers and by the zeal of Theodore Roosevelt and the cooperation of the late Henry Cabot Lodge, the peace-loving President McKinley, who hated war, was finally persuaded to ask for a declaration of war against Spain to free Cuba from Spanish aggression and dictatorship.

**Mr. BLOOM.** Don't you think you have some strange newspaper bedfellows there?

**Mr. LUCKEY.** Well, the men that were in charge of those papers and the two persons that are named were the prime movers in bringing about our entry into the Spanish-American War.

**Mr. BLOOM.** When you mention the Hearst newspapers you mean Mr. Hearst, do you not?

**Mr. LUCKEY.** Yes. The editors, the managers back of the paper controlling the policy of those papers.

And so the holy crusade was on, which made us not only a world power but also extended our interests in Asiatic waters. All this because a peace-loving President was induced to change his mind. (For further information read *The Martial Spirit*, by Walter Millis, or *The Far-Eastern Policy of the United States*, by A. Whitney Griswald.)

The same was true of President Wilson, who in the beginning urged, "We must be impartial in thought as well as in action," and who made a "vigorous protest" against England's violation of international law. But this true pro-America position was ultimately changed. Colonel House, Ambassador Page, and Secretary Lansing finally succeeded in changing the mind of the President, who was elected because "he kept us out of war," to a state of mind that ultimately got us into war.

**Mr. JOHNSON.** Mr. Lansing was not Secretary of State when we entered the war. You called him the Secretary. Bryan was Secretary of State.

**Mr. LUCKEY.** Mr. Bryan resigned as Secretary of State June 8, 1915, and we declared war against Germany April 6, 1917; but the policy that Lansing suggested to the President was of that sort that President Wilson was influenced to change his mind. This will be clarified as I go along.

As one historian states—

All of the policies and vital decisions affecting American relations with Germany were formulated by the President and his coterie of advisers sitting behind closed doors at the opposite end of Pennsylvania Avenue. It was there that it was decided that the war trade was perfectly legal and proper. It was there that the restrictions on war loans were first laid down and then abolished in order that the profitable war trade might not be lost. It was there that the protests to Britain over interference with American trade were deliberately submerged in verbosity and the controversy deliberately prolonged so as to avoid a critical show-down with London. It was there, in short, that the war was made—and without as much as a by-your-leave to the people or their elected representatives.

Of course, the final decision had to be ratified by act of Congress, for the constitutional properties could not be altogether ignored. But what did ratification amount to? Congress could not recall the various blunders that had been made. It could not undo the harm done by the war-trade policy. It could not undo the harm done by the unneutrality of the Wilson-Lansing diplomacy. The President was now prepared to lead them into war. His was the initiative and his the responsibility. (See *The Tragic Fallacy*, by Maurice A. Hallgren, pp. 214-215.)

DR. EATON. Does the witness subscribe in total to that document?

MR. LUCKEY. I am just quoting from the authority cited.

MR. RICHARDS. That was the cause of Bryan getting out?

MR. LUCKEY. I am going to cite that in the next sentence.

And so the wise counsel of strict neutrality as proposed by Secretary Bryan, went by the board and we embarked on a holy war to end all war.

We were cheated by that war. The world was cheated. We won the war but every objective for which we fought was lost. The war yielded a dictated and vindictive peace. A peace which had in it the seeds of a dozen wars, the latest of which now looms upon the horizon. The loot that the so-called democracies acquired through the war and by our aid, we are now asked to defend and protect by "concerted effort."

It can't be done that way. World order can only be restored if based on justice and equity. Past experience has taught us that all major militaristic nations are opportunists, basing their conduct solely on selfish interests. Imperialistic Britain as well as imperialistic France, have given repeated evidence to this fact by their conduct in Europe, as well as in Asia and Africa. Their great empires have been built by aggression and are held together by dictatorial force. England boasts that the sun never sets on her empire. To preserve her status quo, she expects ever America to do his duty. We are now witnessing the grotesque spectacle of England and France trying to enlist Atheistic and Communistic Russian, whose hands are dripping with blood, in behalf of saving democracy and religion. What a travesty and hypocrisy.

MR. BLOOM. Is this a quotation or are these your ideas?

MR. LUCKEY. This is mine.

In this controversy it is not amiss to ask who are the simon-pure democracies, that they may sit in judgment of the world? He who is without guilt, let him cast the first stone.

I have visited Europe on several occasions. The last time I was there—18 months ago—I visited Sweden, Denmark, Germany, Switzerland, and France. For the purpose of getting authoritative first-hand information, I contacted consuls, ministers, ambassadors, and military and commercial attachés. One of my questions was, "What is the cause of the present chaotic condition in Europe?" and practically the universal answer was, "The injustice of the Versailles Treaty and the shortsightedness and mistakes of the so-called statesmen of the post-war period."

MR. JOHNSON. As I understand your viewpoint, you do not like England; you do not like France; you do not like Russia. By a process of elimination—are you pro-Fascist?

MR. LUCKEY. I stated in the beginning that I opposed fascism and communism.

MR. JOHNSON. I have not heard you say anything against the Fascist nations and I heard you speak against all the others, so I wondered.

MR. LUCKEY. I stated my position. I do not know whether you heard the beginning.

MR. JOHNSON. You condemn them?

MR. LUCKEY. Oh, decidedly so; but we must face all the facts.

I was told repeatedly that every obstacle was laid in the way of the New German Republic to prevent her functioning. I was told that many of the new boundary provisions were simply monstrosities and had laid the seed for future wars. The French policy made a European recovery impossible in that its objective was to keep Germany under economic subjection.

Now, these are not my ideas. These were statements made to me by persons I contacted while abroad.

Mr. JOHNSON. What do you mean "speaking with persons"? Official persons or people you just met?

Mr. LUCKEY. No. They were ambassadors, as I stated previously, and consuls.

Mr. JOHNSON. Ambassadors from our country?

Mr. LUCKEY. From our country; and our American consuls and military attachés and our commercial attachés.

Mr. BLOOM. If Germany had won the war, do you think it would have had a more lenient attitude, or a more lenient kind of treaty very much different from the Versailles Treaty? I can imagine.

Mr. LUCKEY. That, of course, is a speculative matter.

Mr. BLOOM. Yes.

Mr. LUCKEY. But the probabilities are that if the United States, at least that is the opinion of some authorities, that if the United States had not entered the World War, the World War would probably have ended 2 years earlier and it would have been a peace without victory. This opinion was expressed by Dr. Maud Roydon, of England, at a peace meeting here in Washington a few years ago.

Mr. BLOOM. Now it is a peace with victory?

Mr. LUCKEY. Yes. It is supposed to be.

Mr. BLOOM. Supposed to be.

Mr. LUCKEY. Yes. Supposed to be, but every nation lost and America proved to be the biggest sucker.

The collapse of international trade, in which our Smoot-Hawley tariff played a major part, was the final blow which drove a despairing German people into the clutches of fascism and made Hitlerism possible.

Our present policy of taking sides by erecting further trade barriers against Germany while supplying Japan with implements of war is shortsightedness and adds further fuel to the threatening conflagration. If we are to fight fire by fire, as has been suggested, we are very likely to burn our hands.

Our mission today must be to stay out of war. If we want to save democracy for the world, we must first save it in our own country and make it work at home. We are the richest Nation on earth and have unlimited natural resources, yet, in the midst of plenty we have want. We have over 10,000,000 unemployed; two-thirds of our railroads are bankrupt and in the hands of receivers; our farm problem remains unsolved, and our farmers are losing their land. We are killing 38,000 people yearly on our highways; our crime record is most staggering. Competent authorities state that at the present time we have an army of criminals numbering over 4,600,000 persons. Over 12,000 murders are committed every year, 37 every day, 1 every 45 minutes. Today, 20 percent of our crime is the work of persons under 21 years of age. What an indictment of the American home and school! Our national crime bill has reached the staggering

sum of \$15,000,000,000 a year. Each man, woman, and child in America pays an annual crime bill of nearly \$120. Our national debt is over \$40,000,000,000, not speaking of State and local taxes. Our National Budget remains unbalanced year after year. Is it any wonder that people are beginning to lose confidence in their Government and are beginning to follow false "isms."

Mr. JOHNSON. Is this speech being made for political purposes or to settle the neutrality question?

Mr. LUCKEY. No, sir. I am going to show you why we need neutrality. Let's face the facts.

Surely we have enough to do at home without policing the world and settling the disputes of the others. Let us first get our own house in order that we may be in a position to prove to a sick world that democracy can and will work.

When I visited Sweden 18 months ago I was most agreeably surprised with the splendid order I found. Sweden has practically no crime, there is no illiteracy, no unemployment. The people are not rich, but there is no abject poverty. They have no labor troubles. Everybody seems to be provided for. They are a peace-loving people and stayed out of the World War, though the war was fought right in their own front yard. And the best thing is these people still believe in God.

Neutrality legislation is not a panacea against all war, but it can do much toward keeping America out of war. Neutrality laws must be mandatory. To allow discretion to the President or the State Department to take sides or to declare the aggressor is very dangerous, as the past has proven. (See *America Goes to War*, by Charles Tansill; *Neutrality for the United States*, by Borchard and Lage.)

A neutrality law, to keep us out of war, should embody the following basic provisions:

1. Prevent American citizens from traveling on belligerent ships or from remaining in war zones.

2. This country or its citizens should not extend loans or credit to any country or its citizens, engaged in war.

3. No protection should be accorded to American property or American shipping in any war zone.

4. Persons refusing to leave war zones after our Government has made a reasonable effort to remove them, remain at their own risk.

5. The Johnson Act should be retained and no loans or credit be extended to any nation which is in default on its indebtedness to the United States.

6. The sale of war implements should be prohibited to all belligerents. Other trade should be held to a normal peace-time quota.

7. No secret agreements or any entanglements with foreign nations should be permitted.

8. The sale of supplies, other than implements of war, should be on a cash-and-carry basis and ownership thereof be transferred at our coast line.

9. Proper legislation should be enacted to take the profit out of war.

These measures enacted into laws will do much to keep America out of war. Keep in mind that the most skillful diplomats and propagandists are feverishly at work to mobilize America for the participation in the impending conflict.

Mr. IZAC. Do you realize, Mr. Luckey, that the reason Sweden, Denmark, and Norway were able to maintain neutrality was because it was to their great advantage to do so, as long as they could trade with both sides and make millions in profits at the expense of the European nations who were engaged in war, they would have been foolish to get into that war themselves; wouldn't they?

Mr. LUCKEY. That is true. But don't you realize that England held the Scandinavian country's trade down to normal peace-time quota with the enemies, the so-called enemies?

Mr. IZAC. I do not know what England did except by reading one of her General's books. I find she kept supplying Germany through Denmark right along, all during the length of the war, with things that Germany had to have. And naturally Denmark was not going to give up this profit, which she was gaining from this secret trading. It seems foolish to me to have everyone tell us about the Scandinavian countries during the World War. Why, of course they were neutral, presumably, because they could get a profit from both sides. Why shouldn't they? What would they gain by going in the war? It wasn't their war. As long as they could trade and make money, surely they should be neutral.

Mr. LUCKEY. So far as I understand, their trade with the central powers was practically on a peace-time basis because England controlled the lanes to the Scandinavian countries and permitted only the normal amount of trade with Sweden.

Mr. IZAC. As a matter of fact, the Norwegian merchant marine was quadrupled during the war, and they took over most of the carrying trade that had gone formerly to American and British shipping. Why, Sweden is right across the Baltic from Germany. All a ship had to do to trade was to go across. The German submarines had it blocked up there at the Danish Island and nobody could interfere with that trade. That was exactly what went on. There was no stoppage of trade between Sweden, certainly, and Denmark and Germany in the war.

Mr. LUCKEY. Isn't it a fact we enlisted some of the Swedish ships to carry on our trade during the war?

Mr. IZAC. None that I know of were in the Army or Navy transport service. We might have had firms——

Mr. LUCKEY. I mean commercially.

Mr. IZAC. We might have had firms underwrite them for commercial purposes. I imagine they still must have made great profits because they would not forego the profit that would accrue to them individually by running their own ships and thus sacrifice those profits by giving those ships over to belligerents. No. I think we are all barking up the wrong tree when we call attention of everyone that these three countries could stay out of the war with the European war right at their front door. Why, it's the easiest thing to say neutral in a business of that kind. What had Holland to gain by going in the war on either one side or the other? She traded just the same as in peacetimes, just the same as if nothing happened except that she was making more profit. It would have been foolish to get into the war.

Mr. LUCKEY. The facts are they did stay out of the war. With submarines and mines in her waters and some of her shipping destroyed, nevertheless, she did not go into war.



Mr. IZAC. Well, I contend the situation of the United States, geographically, is so much different from that of one of those little countries in Europe that in case of a European conflagration we cannot draw any parallel between them. That is the point I want to make.

And then the question about this peace of Versailles. We have heard, and you have been sitting here, so you know the other witnesses have corroborated the things you have had to say, about the injustice of the peace of Versailles. Now, if you want to agree to that, all right. But, on the other hand, what would you have the Allies do? After all, if northeastern France has been destroyed, practically most of Belgium and other parts of the Allied countries' territory, would you have them, at the end of a successful war—we presume they won, so they say, they won—would you have them throw their arms around Germany and say, "Come on. Do it over again. You didn't do a good enough job." Would you compliment the Germans after that and say, "Now, we are going to be awfully easy on you because you slaughtered a lot of our people and treated our country very terribly." It is not in human nature. And why should it apply to nations if it does not apply to human beings?

Mr. LUCKEY. One of the American ambassadors, whose name I am not permitted to divulge, told me we had no business in that war. Secondly, he said the world lost the greatest opportunity for a permanent peace at Versailles at the Peace Conference. He said at that time they should have turned over a new leaf and put the entire European situation on a basis of justice and equity, and then they could have healed the damage that was done. And so far as reparation is concerned, there was a tremendous amount of goods from Germany transferred to France. Germany's rolling stock, and a lot of her forests were cut for building purposes to rebuild devastated French areas. The Saar territory was turned over. All of Germany's colonies were turned over to the Allies. And Germany tried under the Dawes Plan provisions, up to the time of the final collapse, to do what she possibly could and was economically able to do. East Prussia was severed and the Polish Corridor was created. Memel was ceded to Lithuania. In all, 6 million German inhabitants were handed over to other powers with most of the iron and minerals of the country. The English blockade was continued long after the armistice was signed thus starving women and children.

Mr. IZAC. Now, isn't it a matter of fact Germany repudiated that debt? She repudiated the contract and everything except what we went in there and took out by sheer force under the control of an army of occupation. Of course, she could not do otherwise than give up a certain number of cattle and a certain number of logs to be sawed into timber, and so on. But as a matter of fact, if we had been "just" in the legal sense of the term, we would have gone in there and destroyed as she destroyed in France. And that was what a good many of the foreign diplomats at the Treaty of Versailles wanted to do. But our own President was the man that stood in the way and said:

No. We are going to permit a new leaf to be turned over, and we are going to be easy on these people. We will try to wipe out all of these ill effects and have a new peace in which each nation and each little minority may have a place to call their own.

And that is why Wilson tried to give what he thought was a just peace. And still today our ambassadors, as witness your remarks, say that it was a terrible peace— injustice—discrimination—and the result of that war we are reaping today.

Mr. LUCKEY. May I answer? So far as repudiating her debts are concerned, all the nations are guilty of that. England, France, and Italy, and Russia—all of those nations. And so far as aggression is concerned: All of those nations have been carrying on aggression for centuries. Now, I am not defending aggression. I am opposed to that kind of thing. Ultimately, if this world is going to exist and if civilization is going to continue we have to subscribe to law and order. He who demands equity must equity do. That is my position.

Mr. ALLEN. You have held the Scandinavian countries up as more or less of an example, and you apparently spotlight the fact that they were able to stay out of the last war, and that their present policy will probably keep them out of future wars. Now, you understand that they have remained neutral and out of all wars without any such legislation on their books as you recommend for us. For example, there are no restrictions against Norwegian boats going into belligerent zones.

Mr. LUCKEY. That is right.

Mr. ALLEN. And there are no restrictions against Norwegian nationals traveling on belligerent vessels. I just would like to know how you emphasize them as an example and then recommend for legislation laws which do not exist on their books?

Mr. LUCKEY. I am glad you asked that question. I raised that question while I was in Sweden. They have a large ship-building industry there, and also in Denmark. And they told me that they had large orders. In fact, they have orders for 2 years ahead. And that they had been asked to increase or enlarge their plants and they said:

No. We won't do that. We are running three shifts of 8 hours each. But we shall not enlarge our plants because, if we do so, we would be left with the enlarged plant, at the close of this fight and then we would have our labor troubles; and we would have an overhead that would be burdensome. So we are going to stay as much as possible within the general line of our industrial activity.

Mr. ALLEN. You have not answered my question, but it is all right.

Mr. BLOOM. Are you through, Mr. Allen?

Mr. ALLEN. Yes.

Mr. BLOOM. Did you finish your answer?

Mr. LUCKEY. Yes; except I want to add, had we remained neutral as did the Scandinavian countries we would not be in the mess we now find ourselves.

Mr. STEARNS. I was going to ask if that decision was an official one, or what?

Mr. LUCKEY. No; I must say this in behalf of the Scandinavian people. They are very level headed. They are not emotional. We are emotional here in this country. And the slogans, "Remember the Maine," and "To Hell with This or That" will soon arouse public opinion to such an extent that we will lose our head, when we should keep our feet on the ground and our heads cool.

Mr. KEE. Mr. Chairman, I would like Mr. Luckey to reply to the question of Mr. Allen. In other words, if those Scandinavian coun-

tries were able to keep out of war without any legislation such as you are urging for us to pass here—

Mr. BLOOM. Mandatory legislation?

Mr. KEE. Yes. Mandatory neutrality legislation for us—and they do not have anything of the kind on their books such as you are urging us to write, why is it necessary for us, if we want to follow their example to put mandatory neutrality legislation on our books?

Mr. LUCKEY. Our becoming pro-British instead of remaining pro-American was our undoing. We seem not to be able to control our conduct the same as the Scandinavian people did.

Mr. KEE. You do not think for a moment we can legislate to control the passions of our people?

Mr. LUCKEY. No; I do not want to say that. But you know, and we all know, that the trade policy and the fact that our American citizens traveled on belligerent ships and on armed ships, or ships that were carrying ammunition, brought about incidents that aroused the passion of the American people. The fact that our bankers had made huge loans to the Allies and the industrialists had extended credit, were big factors in swinging our sympathies to the Allies. We wanted to protect our investments. Therefore, we want to remove those incidents or the possibility of bringing about those incidents as much as we possibly can by this neutrality legislation.

Mr. KEE. Well, with that view, your example or your comparison of this country with the Scandinavian countries is not apt, is it?

Mr. LUCKEY. Well, it shows that a people can stay out of war in a country where democracy does function and where the people have not abdicated their rights to financial and industrial interests, nor to unneutral propagandists.

Mr. KEE. Providing you change their nature. If we can remake our people, so they can think and act like the Scandinavian people do?

Mr. LUCKEY. Yes. And not be for everlasting after the almighty dollar and blood money.

Mr. KEE. Then we can stay out?

Mr. LUCKEY. Yes.

Mr. KEE. And we would not need any legislation?

Mr. LUCKEY. You take Switzerland, the Scandinavian countries, in fact, all European countries. Their natural resources are very, very limited. They have been exploited for thousands of years. Here, our United States, a virgin country, so to speak, we have some of the finest, natural, unlimited resources in the world. Yet in the midst of all these resources we are in economic difficulty and this largely because we were unneutral and entered the World War.

Dr. EATON. Mr. Chairman, there are two questions raised among many others. I was especially interested in this one of the neutrality discussion which is now going on. I take it that the witness adopts for the Scandinavian countries a neutrality consisting of making profits from both sides during the war freely and untrammelled, but does not want our country to do that.

Mr. LUCKEY. I did not get the last part of your question.

Dr. EATON. Pardon me?

Mr. LUCKEY. I did not get the last part of it.

Mr. BLOOM. That you do not want our country to do it.

**Dr. EATON.** You do not want our country to adopt the method of neutrality which consists of making profits out of both sides during a war, which is the essence of Scandinavian neutrality.

**Mr. LUCKEY.** I want to prohibit all shipments and sales of war materials and limit some of the other commodities to normal peacetime quotas. Take the profit out of war and you remove one of the main incentives to war.

**Dr. EATON.** Now, you raise one of the most startling and interesting questions that has yet been brought to the attention of this committee, because if I understood you, you make the claim that the Smoot-Hawley bill, if that is the name of it, was a culminating agency in the development of iniquity of this country which was responsible for Hitlerism. Now, if we are responsible for the production of Mr. Hitler, what is our duty further on the question of the reduction of Hitler?

**Mr. LUCKEY.** The facts in the case, Doctor, are that within 6 months after the Smoot-Hawley Tariff Act was enacted some 43 nations enacted retaliatory measures that brought about a stagnation of trade or retarded international trade. And all over Europe, I was informed, that the restoration of international trade would ease the tense situation. Especially high praise was given to the efforts of Secretary Hull for the reciprocal-trade agreements in that the restoration of trade would be the best thing for easing the tension in Europe.

**Dr. EATON.** Then you are fixed in the belief that the tariff and trade and economic legislation of this country has produced Mr. Hitler. Now, if it is, why should we not undertake to pare him down at this moment?

**Mr. BLOOM.** On his birthday.

**Dr. EATON.** Or shorten his horns, anyway?

**Mr. LUCKEY.** I do not want to say that the Smoot-Hawley Tariff Act has been the sole cause of Hitlerism, but it has been one of the factors. The fundamental causes of war are largely economic.

**Dr. EATON.** But if we are responsible for Hitler—personally I do not want to assume that responsibility—but if we are, we had better do something about it pretty soon.

**Mr. BLOOM.** Are there any further questions? The committee is grateful to you for coming before them and giving them the benefit of your knowledge in this matter.

**Mr. LUCKEY.** Thank you very much, gentlemen.

**Mr. BLOOM.** We thank you, Mr. Luckey.

#### **STATEMENT OF FELIX MORLEY, EDITOR OF THE WASHINGTON POST, WASHINGTON, D. C.**

**Mr. BLOOM.** I present to you Mr. Felix Morley, editor of the Washington Post. You have all been, no doubt, reading the editorials in the Washington Post, where he has taken such a prominent stand in the present question of neutrality and peace for this country. Mr. Morley, the committee will be very glad to have your views in the matter. If you have a statement, you may read your statement, and then the committee will be very glad to have you answer questions. I believe Mr. Morley would prefer not to be interrupted while reading his statement.

**Mr. MORLEY.** Mr. Chairman and gentlemen, I have prepared a brief statement. I suppose that nobody is more familiar than yourselves with the ease with which one can wander all over the lot on a subject of this sort. I thought whatever contribution I could make would be rendered most helpful by an attempt to outline precisely the factors which have led the Washington Post to assume a definite position in this matter.

The Washington Post has opposed inflexible neutrality legislation ever since such legislation first became an issue. I appreciate this opportunity to summarize the reasoning on which our policy in this respect is based.

In the first place, neutrality is extremely difficult for any great power to achieve in a world which operates under the balance of power. The significance of the phrase "balance of power" is generally misunderstood. It is not a policy to be followed or disregarded at will, but a condition to which every nation must adjust itself. In the absence of any adequate machinery for international peace, every great nation is concerned with the balance of power. It is necessarily concerned because every great nation is fundamentally affected by attempts to upset the status quo. Nations which are generally satisfied with their situation will tend to work cooperatively to keep that satisfactory situation from forceful overthrow. It is this natural reaction which makes neutrality so difficult to achieve.

At the present time the post-war balance of power has been violently upset both by Germany and Italy in Europe and by Japan in the Orient. Our instinctive national reaction to this simultaneous dislocation is apparent in our military preparations, in our efforts to further and consolidate Pan-American unity, in our refusal to recognize the conquests of the aggressors. These are among the warning signs that the United States, as a great power, is not and cannot be strictly neutral in a period of world upheaval.

In the second place, inelastic neutrality legislation establishes an exceedingly risky policy. It is something like choosing a profession for your son before you know the direction of his interests. It assumes that it is practicable to lay down in advance binding rules to apply to completely unpredictable developments. Such a policy may, and, indeed, probably will, tend to conflict with fundamental national interests. Certainly it is demonstrated that our present neutrality legislation has done nothing to forward international stability and has given the people of the United States no real assurance that if war comes the peace of this country can be preserved.

It seems to be an American characteristic to believe that every possible subject can be controlled by rigid legislative action. On this fallacious assumption we tend to conclude that the more difficult the issue the more drastic the attempted control should be. The example of prohibition is fresh in memory. To want sobriety is one thing; to order it by legislation quite another. The same difficulty applies in even greater degree to the universally desired objective of peace, where certain basic factors are evidently beyond our control.

The third point against inflexible neutrality legislation is that the policy rests on a false premise. It sprang from specious propaganda which intimated that wars are started by munition makers, international bankers, irresponsible newspaper publishers, and various other capitalistic groups. Give the Government control over the war-

mongers, said the Nye committee, and there'll be less risk of war. Well, in Germany, the Government controls every newspaper, every munition plant, and every banker, but war is somehow still in the picture. Now, I suggest that this witchburning technique which seeks to place major responsibility on a few "merchants of death," and which underlies the present neutrality law, has been the more deplorable because it has diverted attention from the real problem. The issue is not how to counteract all the possible causes of war, but how to secure the conditions fundamentally necessary for peace.

Peace can only be secured if wanton aggression is actively and intelligently discouraged by all governments desiring peace. And that brings me to the fourth indictment of rigid neutrality legislation, and perhaps the most damning point against it. Such an inflexible policy actually encourages aggression. It serves formal notice, in advance, that the United States will make no distinction between aggressors and their victims, no matter how morally heinous the aggression. By writing off our potentially enormous influence for peace we actively stimulate war. This seems the more criminally stupid because, in spite of efforts to avoid it, the possibility of our being involved in any major and long-continued war is so strong. Our foreign policy should be directed to discouragement of war as such. Legislation affecting foreign policy should have the same objective. This seems the more incontestable in view of the widespread fear that if a major war comes we shall be involved. Indeed the feverish effort to guarantee neutrality itself seems a tacit admission that neutrality is very difficult to guarantee.

In addition to increasing the risk of war rigid neutrality legislation goes far to destroy the effectiveness of our first line of defense against war, which is the Department of State. The fifth point is the adverse effect of our inflexible policy on the Department of State, which is our department of peace. The fundamental purpose of that branch of the administration is to keep the country at peace. To achieve that purpose successfully its highly trained and well-informed officials must be allowed some latitude of action.

None of you gentlemen would think of demanding that the Navy Department, in the event of war, should follow this or that strategy to be laid down in advance by Congress. Is it not equally unreasonable to fetter the well-qualified judgment of the Department of State in a campaign for peace? In the field of foreign policy the administration must operate under congressional guidance rather than under rigid congressional orders. You cannot put manacles on the Department of State and expect it to do an effective job in preserving peace.

From the viewpoint of our form of government, and this is the sixth consideration, rigid neutrality legislation is revolutionary, even perhaps actually unconstitutional. You will recall that, as recently as December 21, 1936, the Supreme Court<sup>1</sup> referred to the "plenary and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress." Those words certainly seem to indicate that certain forms of mandatory neutrality legislation could, in an emergency, be properly ignored by the Chief Executive.

<sup>1</sup> See p. 450.

In many respects where more power for the Executive is questionable Congress has increased that power. But in our external relations where John Marshall defined the President as "the sole organ of the Nation," Congress is seeking to contract his powers. Because this is doubtful law it makes stronger the unpleasant implication that Congress does not trust the President and the Secretary of State. It is perfectly apparent that this is the conclusion which the aggressive powers draw and which they are endeavoring to promote. Even if this mistrust really existed it would seem deplorable to advertise it to the world at this particular moment.

Finally, in view of our national traditions and record, rigid neutrality legislation constitutes an immoral policy. It indicates that we have as little regard for treaties as have those nations which we accused of treaty violation.

It was the United States which sponsored the Kellogg Pact, outlawing war as an instrument of national policy. But by adopting an inflexible neutrality program we have served notice that the utilization of war as an instrument of national policy has become a matter of complete indifference to us. This seems an unpleasantly hypocritical attitude on the part of a nation which has always been rightly proud of its leadership in the effort to secure respect for treaties as the only basis of enduring peace.

It, therefore, seems to me that any careful and objective consideration of the issue must lead to certain inescapable conclusions. Rigid, inflexible, inelastic neutrality legislation is likely to prove unworkable. It is almost certain to prove unneutral in any accurate sense of the word. It may operate against our fundamental national interests. It does less than nothing to forward peace. It actually stimulates war. It does not materially lessen the risk of our being involved when war comes. In the emergency, after the damage has been done, it may possibly be ignored as unconstitutional. It is a devastating confession of national weakness and confusion. It runs counter to the traditional policies which, through the generations and throughout the world, have made the name of America respected and influential for peace and human progress.

I thank you for your courtesy in letting me briefly summarize the major considerations which have led the Washington Post to conclude that any provision of a rigid or mandatory nature should be excluded in amending the present act.

Mr. CORBETT. I would like to ask the gentleman, surely in view of the history of our foreign policy, if we want to achieve neutrality it has to be done through the neutral attitude of the President and the Department of State. Is that a misstatement?

Mr. MORLEY. I would say it was absolutely accurate because the reverse is obviously true. That is, if the President and the Department of State do not wish to be neutral, there is no legislation which Congress can pass which can force them to be neutral. If any President wants to send a warship anywhere and start firing, he can do it regardless of any legislation which Congress can pass.

Mr. CORBETT. Thank you. I believe, along the same line; do you think there is any possibility at all of our passing some legislation which will tend to eliminate these incidents which have aroused our emotions unduly? What I have in mind specifically are items which

other witnesses have mentioned, that might be some articles of trade, or the travel of American nationals, or to at least keep the American people in a more calm state of mind in the event of war.

Mr. MORLEY. Well, I feel very strongly that the establishment of the Munitions Control Board which, of course, is part of the present Neutrality Act, has worked very effectively. In that connection it lists all the war exports. It uncovers matters which used to operate in the dark. It makes available to everybody information on such arms and munitions as are being shipped, the places where they are going, what they are, and what value they have; and it enables the Department of State to exercise the enormous pressure of public opinion in discouraging any shipments which the Department of State thinks would be undesirable, unneutral, or of an improper character. So it seems to me we have obviously already achieved one big step by the Munitions Control Board. And personally, I would be very distressed to see that abolished. It has done great work and it will probably continue to do great work not the less so because it is very quiet and is not very much advertised.

On the other issue of trade, and so on—I mean about keeping people from taking ship—we get into a very complicated field in which I would not attempt to say my judgment is particularly worthy of your intention. I did notice in the Pittman proposals for amendment, if they were literally interpreted, that if Great Britain were at war, let us say a border skirmish with Afghanistan for purposes of illustration, if that amendment were on the statute books no American could travel to Bermuda, not even on an American ship. Nor could he go from Seattle to Vancouver. My point is that in laying down rigid restrictions of that character you may be heading into all sorts of consequences absolutely unpredictable. So I would come to the conclusion, if restrictions of that sort are desirable for their moral effect, they should at least be flexible and not mandatory. The Congress should give its opinion, its general feeling on the subject and leave it in the hands of the administration to apply such regulations as Congress deems appropriate at the appropriate moment and in the appropriate place.

Mr. BLOOM. Can you substantiate that opinion that a rigid neutrality encourages aggression?

Mr. MORLEY. Why, I think, Mr. Chairman, it is fairly obvious on the face of it. But I can cite an instance which I think shapes the thing up pretty well. It requires I name a name, and be specific in naming a name, which, if I may observe, the previous witness did not do, about an important personage in Europe. I see no reason why, under the present circumstances, that name should not be named. In June of 1937 I was in Prague. Mr. Eugene Meyer and myself were making a little tour through Europe. He came to Prague from France. I came down from Germany. We met there and had a long interview with President Benes, then the President of Czechoslovakia. That was just over a month after the present law went on the statute books; I think it became effective May 1, 1937, and this was the middle of June.

President Benes gave us a very illuminating survey of the world situation which proved very accurate in the course of events. Of course, it was off the record. And at the end of that survey I asked him what he thought of our present neutrality law in its effect on



peace and war in Europe. He replied that it was, of course, no business of his to comment on any legislation of the American Government, but he would do so since I had asked him, and since it was off the record, and I feel, now that Czechoslovakia is no more, the tie upon my tongue is naturally removed. He said he regarded our neutrality law as a blank check to Germany for her to fill in at Czechoslovakia's expense. And that was the opinion of every member of his Government. I think that is as graphic an illustration as I can think of to answer your question.

Mr. BLOOM. That warned the other nations practically of our attitude with reference to neutrality.

Mr. MORLEY. It told Germany that, so far as the United States was concerned, she could go into Czechoslovakia and take it any minute she wanted. It was no concern of ours and we would not object and certainly would not raise a finger in protest. We told her that in advance. That is one reason why I think the uproar in this country at the time of the destruction of Czechoslovakia was not very honorable because after we definitely encouraged the destruction of that country, why should we whine about it afterward?

Mr. CHIPERFIELD. I have been very much interested in the statement of the witness and he has answered part of the question that I am about to propose. I would say from your statement that you favor repealing the present Neutrality Act in its present form except in relation to, we will say, the munitions sections; is that correct?

Mr. MORLEY. Well, I would favor giving more latitude. I think some of those provisions you have got in there may be of value in their moral effect, and I think, as guidance to the administration of what Congress wants, they might well be kept. It seems to me there should always be complete latitude for the administration to apply them or not at the psychological moment.

Mr. CHIPERFIELD. You think, then, you can make flexible a Neutrality Act, the application of which could be applied some time in the future?

Mr. MORLEY. If you merely say the President "may," in his judgment, or "when he considers the time appropriate"—instead of saying, "The President shall" or "The President must," you have met at least 90 percent of the problem.

Mr. IZAC. In my opinion, hasn't he that power at this time? Do you need a Neutrality Act for that?

Mr. MORLEY. It certainly would be very difficult for the President to sidestep the issue, as in the Sino-Japanese War, and not invoke the present act in the event of war in Europe. The language needs softening in that respect, to my way of thinking.

Mr. BLOOM. Well, if we should have a rigid neutrality act, you do not believe, do you, Mr. Morley, that we should change the rules after hostilities have commenced?

Mr. MORLEY. It certainly would not be neutral to do so.

Mr. BLOOM. Well, if you have a rigid neutrality act, you must live up to the rules of that act or the act itself, regardless of where it takes us?

Mr. MORLEY. Yes.

Mr. SHANLEY. Of course, when you say you do not want to change the rules after the war has begun, you would say—you are going to change them, if it is to your vital interest. You are not going to

change them arbitrarily if it is not to our advantage. For example, in the early part of the war the British insisted on putting certain commodities on the contraband list. Now, we had the right—the President had the right—to say, “If you do this, I will simply ask for an embargo on arms and munitions,” in order to force them to come to our view. You would not preclude that use of diplomatic weapons?

**Mr. MORLEY.** No. It seems to me it is desirable to have flexibility throughout, as I said. If you start out so that it is impossible to adapt our policy to the circumstances, you stay a victim of the difficulty. A corollary of that is, if you do not start out with rigid provisions, you can automatically adapt your policy to the circumstances as they develop.

**Mr. SHANLEY.** There are a great many people who have a great fear, who are divided into two camps, who say that the President will use this power to pass upon the merits of other wars and bring them to our shores. In other words, he will use the diplomatic weapons to punish somebody or to side with somebody and decide that that somebody has done something that does not appeal ethically to him. Now, if you grant that we should not do that, and that is in the law, and then he does use diplomatic weapons, obviously he is using them not to punish or not to pass upon the moral grounds of the nations or belligerents in war. But, to go further, do you believe the interests of this country, our own vital national interest, need discretion in the Executive?

**Mr. MORLEY.** Well, it seems so to me. Anybody is entitled to distrust our own President. And for political reasons it is often advantageous and desirable to do so. But when you come to a show-down, certain powers must center in our head of State. If we distrust that man, it is inevitably a weakness. You could get rid of that man, perhaps, and put someone in whom you trust better. That would be the logical thing to do. But, after all, he can always precipitate us into trouble regardless of what is on the statute books.

**Mr. RICHARDS.** You suggested the unfortunate results of the present Neutrality Act in Czechoslovakia. Do you mean to go so far as to say if we had not had this neutrality law that that nation would still exist?

**Mr. MORLEY.** No, sir. I don't think that necessarily applies at all. I merely stated what the President of Czechoslovakia thought, off the record, was the effect of our law.

**Mr. BLOOM.** We will recess at this time until the call is answered, and we will come back. Mr. Morley will kindly remain, so please come right back after the quorum.

(Whereupon the committee recessed from 11:30 to 11:50.)

**Mr. BLOOM.** The hearing will come to order.

**Mr. JOHNSON.** Mr. Morley, I was very much impressed with your entire statement, but especially with reference to that feature of the statement in which you used this language: “The unpleasant implication is that Congress does not trust the President and the Secretary of State” (speaking of foreign policy). “It is perfectly apparent that this is the conclusion which the aggressive powers draw and which they are endeavoring to promote. Even if this mistrust really existed it would seem deplorable to advertise it to the world at this particular moment.” Now the newspapers do not, as a rule, preach not to advertise. They usually preach the doctrine of advertising.

In this particular instance, however, I think I am in thorough harmony with what the gentleman has suggested. I made a speech in the House a few weeks ago in the same respect. I would like to request the editor of the *Post* to write an editorial on this subject, "Do not advertise."

Mr. MORLEY. Can that be made a bipartisan request?

Mr. JOHNSON. As an official request. He does not have to commit himself. I am not joking. I think it is one of the most serious questions that concerns our country that now we show a divided opinion among ourselves and as to the effect it has upon the foreign powers. I think insofar as domestic policies are concerned, why, when we criticize and differ with one another, the American people know we are inclined to use exaggerations in stating our position and they know that a cooling time will intervene. But the criticisms we make of the President and the State Department in times like these are not properly appraised always as coming from the individual view of one man or probably of a minority group but is advertised in the press of the dictator or aggressive powers as indicating that the American people are not in harmony with the President, and that he speaks without authority. I think it is important. And I think you have touched upon a question that needs to be expressed. I speak from the sincerity of my heart when I make that request.

There are some other questions I want to ask, but was there anything further you would like to elaborate on that statement at this time, or not?

Mr. MORLEY. Well, only to add a specific bid of evidence. I mean the President's recent message to Hitler, and that conveyed through the Secretary of State to Mussolini, as being written off, as you can see from the press, as being written off over there as part of a third-term campaign, coming from a man who does not represent the opinion of his people and is to be disregarded, and so forth.

Mr. JOHNSON. I want to ask this question. There is a certain school of thought in this country who express the view, I think in the minority, that the President should hold his silence concerning the situation in Europe, and that he is inadvertently or designedly dragging us into war in expressing his opinion about matters taking place in Europe. What, in your opinion, would be the result if he were to remain silent? And, in your opinion, is he actually doing anything that is calculated to involve us in war?

Mr. MORLEY. Well, the answer to that last question I think is decidedly in the negative, from my viewpoint, of course. Anyone can quibble about the value of a word, whether the right word was chosen or not. Nobody knows that better than those who draft legislation and those who try to write editorials. You can always say that perhaps a word that the President used was stronger than it might have been.

Mr. JOHNSON. But with reference to policy, whether or not he should remain mute and silent, or whether he should express himself with reference to the happenings in the world? What is your opinion, not considering the language which is used or whether the thought is accurate, but whether he should be silent?

Mr. MORLEY. Here is a situation which obviously vitally affects us. It seems to me it is the duty of the President to express himself in

such a way as he and his advisers think appropriate, but certainly to express himself in the situation.

Mr. BLOOM. Any President?

Mr. MORLEY. Any President.

Mr. CHIPFIELD. I perfectly realize the right of the President to express himself. But does that same right or duty go so far as to have other high officials outside of the State Department make statements of our foreign policy?

Mr. MORLEY. Yes; personally, I do not think it is the case for a minute. Another one of the difficulties of the matter, partly aside from rigid neutrality legislation, is the aptitude of certain cabinet officers to speak in matters of foreign policy, in which they are not authorized by the Secretary of State to speak. He never speaks in a comparable manner where their Departments are concerned.

Mr. VORYS. I had the misfortune of missing your valuable contribution, but I had the opportunity to look it over. And following that thought which Mr. Johnson brought up, apparently in your paper you feel that the Supreme Court sets down, when it talks about the "plenary power" of the President, that that means that the President has the sole power of conducting the foreign policies of the United States. Now, of course, that is not what the decision said, and unfortunately or fortunately we are in a country where the foreign policy of the United States must perforce be determined by acts of the Executive. Congress, of course, does have the sole power to declare war and to provide money for purposes of war and for the very Department of State itself. That being the case, do I understand you to feel that the President should be so unhampered by Congress in his conduct of foreign affairs and the determination of foreign policies that criticism and discussion of his policies is unconstitutional, and that the only proper course is for Congress to follow the lead of the Executive and declare war whenever he asks us to do it; appropriating for national defense or anything else, following with legislation which he has to have to complement any foreign policy? Or do you feel that this is a matter for democratic team work? That is rather a long question and I would appreciate that it is difficult to answer categorically.

Mr. MORLEY. No, sir; I think it is very clear. To begin with, I am not a lawyer. I am not a constitutional lawyer and I am not competent to lay down any fine judgment of these matters. I merely pointed out there are some rather remarkable obiter dicta in this Curtiss-Wright decision.<sup>1</sup> Although I am not a lawyer, I am perfectly aware of the fact that the legislature has constitutionally a very direct concern in our foreign policy. But that concern operates in the nature of oversight and guidance rather than specific direction. The check of the treaty power is there. And the check of the appropriations, of course; and the check of the declaration of war. But from this to the assumption that it is the function of the legislature definitely to lay down in advance specific rules which shall control the administration in unforeseen and unpredictable circumstances is a long jump. It seems to me that this Curtiss-Wright decision indicated that was also the opinion of the Supreme Court. That was the point I wanted to make. It seems to me the

<sup>1</sup> See p. 456.

necessity of cooperation is obvious and the mere fact all of us are sitting here today is one illustration that it is taken for granted.

Mr. VORYS. Your statement is in general terms, and possibly before I got here you had given your views in those specific provisions of legislation. Have you already been asked about that?

Mr. MORLEY. No, sir. I am not sure I am competent to speak on the specific provisions.

Mr. VORYS. Well, for instance, any sort of embargo is a legislative matter. That is, the President, without legislative authority, does not have the power in this country to say to certain people they cannot ship something someplace. Now, are you in favor of our having any forms of embargo on munitions or anything else in case of war?

Mr. MORLEY. I think very often it is desirable. I think in the specific case to which we are referring, the case of Chaco dispute, from which this particular decision sprang, the embargo powers which were authorized by Congress at that time and applied by the President under that authorization seemed to me thoroughly constructive. One can think of many cases in which Congress would be well advised to grant embargo powers to the President.

Mr. VORYS. Can you think of any cases where the Congress would be—put it this way: As I take it, you think each situation should be dealt with as it arises rather than have an attempt to cover the whole possible field of embargo legislation?

Mr. MORLEY. Precisely.

Mr. VORYS. Now, what about Japan? How would you feel about a specific embargo on Japan at this time. That is just a specific case that will require apparently additional legislation to put it into effect.

Mr. MORLEY. Well, of course, a specific embargo of a particular country is a very drastic action, and in taking that action you have to visualize not merely the probable but the possible consequences. I mentioned the Munitions Control Board as an agency which can and has shown itself capable of exercising a virtual embargo without going to the extreme of passing legislation on the subject. That is, they have practically held up, I believe, the shipment of planes to Japan as a matter of policy. But they have done it in such a way that the Japanese Government cannot take exception to that action. Now, if Congress authorized an embargo of Japan, it goes through the legislature with all the attendant publicity that would be given. That is a serious step. That is a step beyond my province to say whether or not I advocate it. The wisdom of you gentlemen is very much greater than mine in that field. I merely pointed out that a good deal can be done in that direction by the utilization of machinery as it is already set up in the Munitions Control Board. They are doing it in such a way as not to raise an issue.

Mr. VORYS. You would favor, then, retaining the munitions-control provisions of the present Neutrality Act?

Mr. MORLEY. Decidedly. It seems to me they go a long way to meet whatever justice there was in condemnation of the individual providers of munitions. Through that instrumentality you have gone a long way to control the so-called merchants of death.

Mr. VORYS. You favor the retention of provisions against foreign loans to belligerent powers?

**Mr. MORLEY.** I would not object to them.

**Mr. VORYS.** How about cash-and-carry?

**Mr. MORLEY.** You mean whether I favor cash-and-carry as a policy?

**Mr. VORYS.** Yes; the retention or extension of the cash-and-carry provisions.

**Mr. MORLEY.** Well, I would rather not, myself, legislate in advance on that subject. The legislation on the matter of loans, I think, would go a long way to satisfy public opinion—let me try to make my position clear on that point. It seems to me the issue is to what extent can we pass legislation which will assure the public that everything possible is being done to prevent us being dragged into the war by improper forces. Everything that can be done in that direction is valuable as long as it does not reach the point where you will hamstring the administration and make the conduct of our foreign policy absolutely negative or futile. Just where that fine line of discrimination should be drawn I do not feel I have sufficient authority to say. But there is some point which you can reach that fine line I am sure, in my mind, about the Munitions Control Board. I think on the matter of loans, legislation is probably also desirable. When you get on to cash-and-carry, I begin to feel rather dubious.

**Mr. VORYS.** Have you considered a change of the cash-and-carry plan to a mere provision by law that in time of war our merchantmen would proceed at their own risk?

**Mr. MORLEY.** That seems to me to be a very proper provision.

**Mr. SHANLEY.** Mr. Morley, I want to say there seems to be a prevalent feeling abroad even if we abandon all of this neutrality and go back to the so-called rules of international law, in the give and take of international practices which existed prior to 1935, and prior also to our World War, that even under this system the President of the United States has got the power not only to change those rules when it behooves us for our own national interest, but to crystallize into action his abhorrence of certain acts of that war. For example, even the most avid isolationist of today, whom we all admit to be Mr. Herbert Hoover, in his speech said there may be acts of, not necessarily aggressor nations, but warring nations, that may be so abhorred by the American people they will run and demand some action. So that even strict isolationists agree that the nations abroad must realize that American spirit and American feeling of fair play will be angered by horrendous acts: They might be acts of inhuman aggression or they might be the bombing of undefended cities. But I think that prevalent view which seems to be abroad is inconsistent even with those who believe in strict neutrality. Am I right in saying foreign diplomats and some foreign chancelleries have that viewpoint?

**Mr. MORLEY.** Yes; I think that is true. It seems to me your point about Mr. Hoover's exception is very well taken, coming right in the middle of a speech which appeared to be very strongly isolationist. As far as I gather opinion abroad, what they are worrying about is we shall tie our hands in advance in such a way that we shall be unable to express even a moral protest on some particular issue in which every right-minded people, every honorable people, should make a protest.

**Mr. SHANLEY.** As a matter of fact, some of the most strict neutrality men with whom I have talked and whom I follow in many respects are the very ones who would be most horrified. Their abhorrence is stronger than anyone else's.

Mr. MORLEY. A gentleman who is in Congress, Senator Nye, on the Spanish War rather changed his mind.

Mr. SHANLEY. I understand so. May I also ask this? Getting down to cases, that is what everybody insists on here, we have a situation in the Orient; here we have a law. If the same situation arises in Europe today, if a war broke out today under this act, it would be possible for the President not only under the Constitution but under those cases even without the obiter dicta, to declare that there is no diplomatic war. He still has that power under this act and the implications of that decision?

Mr. MORLEY. That is the way it looks to me. As I said to Mr. Vorys, I am not a lawyer, but there are some strong phrases in this decision. Not very much has been heard about it. I am not competent to speak. I am not a lawyer. But it does seem to me that there are under this decision certain things to which the President can refer and say, "While you have passed legislation which binds my hands in war, according to the Supreme Court on December 21, 1936, that was inadmissible. Therefore, I shall disregard your legislation." Maybe I am wrong on that. But there are phrases in here for everybody to read:

It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved (*United States of America v. Curtiss-Wright Export Corporation*).

That is one of them taken at random. There are half a dozen, at least, of such remarks in this opinion.

Mr. SHANLEY. We have complained and complained about the Far Eastern situation but certainly Congress has done nothing to correct that situation and allows it to continue.

#### BOTH MINORITY AND MAJORITY ACQUIESCE BY SILENCE

Mr. MORLEY. If it is in order, I would very much like to ask you, Mr. Shanley—is that permissible?

Mr. BLOOM. Yes, it will be very much appreciated.

Mr. MORLEY. What, in your opinion, is the reason why Congress has not taken any steps to inquire why a state of war has not been declared in the Far Eastern crisis?

Mr. SHANLEY. It is different when you turn witness. I may be hoisted by my own petard. I think perhaps in the recent English decision, which came out of the high courts, in which the English courts decided that for insurance purposes there was war in the Orient, and this court would be bound by the fact there had been high rates imposed. But, as I understand it also from my informant, they claim there was "no diplomatic war." When we wrote that act and put into the opening sentence, the opening phrase in section 1, "that whenever the President shall find \* \* \*." We lodged the ultimate say-so on the finding in the President. Now note that that finding follows the Supreme Court cases because this Supreme Court case was December 1, 1936, and when we wrote the act it was on

August 31, 1937, if those dates are correct—we are bound by that decision of having allowed this act to go through with that word “finding.” It presupposes that the President may find it, and then with the implications of this decision—I have talked about that extract from the *Curtiss-Wright case* too often to repeat it now—that the courts will say once you allow the President to make this finding and really do the things so far as the act is concerned, you must be bound by his action or failure to act. You have this situation in the Orient, irrespective of the personal views not only constitutionally right but sanctioned by the last decision, I think of a so-called “tory court.” Does that answer your question?

Mr. MORLEY. Yes; it does. It raises a further point of whether we are ever again going to have what we call diplomatic wars, whether any wars in the future will be declared.

Mr. SHANLEY. Of course, after the Kellogg-Briand Pact it was a foregone conclusion that nobody would declare war.

Mr. MORLEY. And they have not.

Mr. SHANLEY. It is just like writing legislation to cover income taxes. There are too many people on the outside whose business it is to circumvent it. The faster you write it they find loopholes. So with neutrality legislation or with war-preventing legislation, it is impossible to foresee the future.

Am I to persist as a witness, or may I go back?

Mr. BLOOM. As you wish. Do you have any further questions, Mr. Shanley?

Mr. SHANLEY. Mr. Vorys brought up the question about negotiations with foreign powers. These are almost virginal powers, coming down, not by any carving out of powers that the States gave, but derived as sovereign powers, sanctified not only in the Washington-Jay Treaty episodes but even by Herbert Hoover in 1930, when he told Mr. Norris in very polite executive words he had no right to get certain documents. All of this comes down to the fact that in the foreign policy, after all, we only have a negative field, and foreign policy by gentleman's agreement presupposes and gives the President something we cannot touch, except perhaps by direct legislation. So when we attempt to impose our law to impinge or circumvent or even circumscribe the executive department, it is only after the President goes as far as he is able to in his negotiations with the foreign powers.

Mr. MORLEY. Well, from what I know of the people at the Department of State, there is nothing they take into more consideration in the determination of their policy than the attitude of Congress, either implicit or explicit. The mere interest of Congress, of this committee or the Senate committee, and the debates on the floor have impinged on the administrative branch and helped to determine its policy. Frankly, my opinion, my personal opinion, for what it is worth, has often been that the Department of State was very timid in defining its policy, of taking steps of a constructive nature for fear it would meet an adverse reaction in Congress. So not merely constitutional powers given to Congress, but the interest exhibited in Congress and by individual Congressmen all the time, is a factor operating on the Department of State. It further seems to me that



in general, the guidance of Congress, when a large majority of Congress agrees in a general line of guidance, is one which I can hardly conceive the Department of State running counter to, from what I know of the Department. That would be a question which might much better be addressed to somebody from the Department. But from what I know it seems to me they are always under the influence of Congress, perhaps too much so.

Mr. IZAC. Mr. Morley, in that same relation, don't you think that the Congress has the power and the right to outline the framework of the national policy, such as we could call the national strategy, but the actual tactics of it is in the hands of the State Department and the President?

Mr. MORLEY. Precisely.

Mr. IZAC. In the functioning of that general policy—certainly we are the ones who represent the people and they should determine what the national policy needs to be?

Mr. MORLEY. Precisely as I stated to Mr. Vorys. It is a matter, it seems to me, for guidance rather than for too explicit instruction. And Congress, after all, is the only body from which we can get guidance as to what public opinion is. And public opinion will in the long run determine our foreign policy regardless of the inherent powers of the Executive in that field. I do not think any number of Gallup polls are ever going to take the place of Congress as affecting the direction of policy.

Mr. IZAC. So that within that framework we can draw up a certain resolution that would dictate to the State Department and the President a line of action that they would be compelled to take?

Mr. MORLEY. That would dictate a line of action?

Mr. IZAC. Absolutely dictate it. For instance, the Monroe Doctrine—we could by legislative action state that is the foreign policy of the Government of the United States. We could also say that in case of discrimination by foreign nations against us we could retaliate to the extent of conferring similar powers on them in our zone of influence as they grant to us in their zone of influence; isn't that correct?

Mr. MORLEY. I doubt that you could "dictate"—using the full force of that word in the same sense as you can dictate in the field of domestic legislation. I think you can lay down a line of policy which would have perhaps the effect of dictation. I doubt very much if Congress has the legal powers to dictate to the President in the full sense of that word, to dictate just what his policies should be in the field of foreign relations. Of course, it depends again on what you mean when you speak of a "framework." If you make the framework extensive enough then perhaps the use of the word "dictate" is justified. If you make the framework narrow, then I do not think it would be justified. I am not a constitutional lawyer, to speak with authority on that subject. That is my opinion.

Dr. EATON. Mr. Morley is a man of such intelligence and learning I would like to raise an academic question here, and perhaps, at first, by pointing out the most difficult situation we are in in this country at the present moment. First of all we have a practically unanimous fear and abhorrence of war as such, and a determination to keep out of it and to do everything we can to keep out of it.

That is a fixed fact in public opinion. On the other hand we have public opinion divided. I find in my correspondence that the old conservatives who have been entirely in disagreement with the President in his domestic policies are now strongly for him in his foreign policy. While radicals who are for him on his domestic policy are now against him, largely, on his foreign policy. So, I raise this academic question, and I would like to have your opinion on it: Our trouble is apparently, as I see it, that the checks and balances system which works well in domestic affairs breaks down when you go beyond our borders in international affairs. Now, would it be possible to bring to the floor of Congress, the Secretary of State daily as a member of the Cabinet and have Congress and the administration bear the same relation as they do in the British system? That would take care of neutrality and unneutrality and a thousand other troublesome problems if the Secretary of State expressed the view of the administration day by day and Congress took final action thereon. Would that be possible to achieve? I ask you to draw upon your fund of knowledge and wisdom.

Mr. MORLEY. My fund of knowledge is not as profound as you very nicely suggest, sir. But certainly the difficulty of not having a representative of the administration constantly on call as the British have is a shortcoming in time of crisis. On the other hand, haven't we got the committee system which we see in operation here today? Haven't we developed something which tends to get around that difficulty? Something which I believe is not paralleled in any other parliament—a committee system which can at any moment summon anybody from any department, and obtain information better than by asking questions on the floor, which the representative of the administration abroad can evade, as I understand they do.

Here, as I know in practice now, and as I have long known in theory anyway, it is extraordinarily difficult to evade a question, and it is as difficult for any member of the administration, or an official of any branch of the Government to evade any question, as it would be for me.

Dr. EATON. It has been done.

Mr. MORLEY. But I do not think the committee system acts quicker in a difficult situation.

Dr. EATON. In other words, our constitutional system, that is, checks and balances works wonderfully in domestic affairs but when it comes to world conditions we seem to be stumbling around in the dark most of the times at cross purposes. There is no doubt of a strong attitude of distrust toward the President at present as has been brought out in the open here on the floor of Congress. And if Congress and the President could work together directly day by day, and if he would not answer any questions, why a joint conference is possible in the British system at this time, and it would be the same here. It would take some time to do that, and meanwhile, I suppose, we will have to pass a neutrality law.

Mr. MORLEY. Well, you pay a price for freedom. There is no doubt about that.

Mr. RICHARDS. Mr. Morley, regardless of your modesty here, I have been convinced you are a pretty good constitutional lawyer. I want to ask you this question: Don't you think there is a vast dif-

ference between an attempt by Congress to circumscribe the constitutional rights of the President and an attempt by Congress to circumscribe the rights of our citizens in their actions which may affect international affairs and possibly lead us into war? And might it not be wise to pass some legislation to circumscribe the rights of our citizens and thus make it easier for the President to carry out his constitutional functions and preserve peace?

Mr. MORLEY. Decidedly. As I have already said, the Munitions Control Board, definitely circumscribes the rights of certain of our citizens in certain directions—no munition maker can send his products into export trade without first getting a license and filing a statement. That is circumscribing his rights as an individual. There is no question of that.

Mr. RICHARDS. Would you not circumscribe rights to travel on belligerent ships? And about credits, and so forth?

Mr. MORLEY. Well, I think on the matter of loans, I would be inclined personally to circumscribe. As I said, you reach the nice point of where the line should be drawn. I would not circumscribe on travel. Just why I would stop on travel I cannot quite say. There is a nice line where you should stop the circumscribing of rights. Just where that line rests I really find awfully difficult to define myself.

Mr. RICHARDS. Really, that is one of the hardest problems Congress has before it?

Mr. MORLEY. It is a terrible problem. I am glad it is yours and not mine.

Mr. VORYS. Mr. Morley, you know, I presume, that Munitions Registration Act is not the Munitions Control Act.

Mr. MORLEY. I beg pardon. I should have said the Munitions Control Board.

Mr. VORYS. But the Munitions Control Board, as I understand it, has no control, legal control, beyond merely the requirement of registration, so that we know what is going on and the pressure that was brought, for instance, on one of the airplane companies to have them stop sending any more propellers or airplane parts to Japan, which they agreed to do after they finished the orders for the propellers; that was merely diplomatic pressure brought within our own country, in which possibly there was a veiled threat that their business might be affected if they did not quit. But there was no power under the Munitions Control Board to forbid the sending of arms. Are you familiar with that situation?

Mr. MORLEY. Yes; but doesn't it set up a definite licensing system, Mr. Vorys?

Mr. VORYS. Yes; but anybody can yet a license. All they have to do to keep the license is tell who they are sending the stuff to.

Mr. MORLEY. That is a great deal, I think. That is good. It does not seem to me quite as negligible as perhaps you suggest.

Mr. VORYS. No; I do not think it is negligible. I think it is a fine thing.

Mr. MORLEY. But from your statement I understood you thought that control meant actual control; that the Government had the power to say, "Don't send any munitions here or there." It does not mean that. I wonder if they should have.

I think the power they have does somewhat definitely circumscribe the rights of the individual munitions manufacturers. It seems to me that this circumscription of their rights is a healthy one from the viewpoint of the body politic.

Mr. BLOOM. Mr. Morley, do you think our Government should name the aggressor nation?

Mr. MORLEY. I believe, Mr. Chairman, some witness either before your committee or the Senate suggested that the President in his message the other day had practically named the aggressor nations.

Mr. BLOOM. Well, do you believe we should do it; that is, name the aggressor nation?

Mr. MORLEY. If we are a party to a treaty and that treaty is clearly violated by another party to that treaty, I think we should. In fact, I think we have more than once called the attention of our public and of the world to the fact that a treaty has been violated by a particular party to it. We have done that, as a matter of fact, in the case of Japan in the Nine Power Treaty.

Mr. SHANLEY. Isn't it a matter of fact that in 1798 when we broke the French Treaty of Amity and Commerce and the defensive alliance, we said, "First you violated it because you have issued a declaration of war," and, secondly, the treaty was made with the monarchy and not with the revolutionists, so by itself the naming of the aggressor does run in our action seemingly. It is the punishment of the aggressor which is the quintessence of all of this argument pro and con. Even under the Briand pact, Mr. Stimson and Mr. Kellogg named the Soviet as an aggressor in the seizure of northern Manchuria there in 1929 and Stimson in 1931 did it.

Mr. MORLEY. Naming the aggressor is essentially the first step.

Mr. SHANLEY. Under the pact.

Mr. MORLEY. It is the first step toward establishing any opposition to aggression.

Mr. SHANLEY. Yes. Under the Kellogg pact I think the implication of whether you are going to implement with further action is another question.

Mr. RICHARDS. I do not know whether he testified on it but I would like to hear what the gentleman has to say about the Pittman cash and carry. What do you think about that?

Mr. MORLEY. Well, I like very much the idea of merging munitions in with general commodities. It seems to me that the distinction between manufactured munitions and the basic commodities from which munitions are made is very narrow and unfair and works in favor of the country which has its own munition plants and against the country which has no munition plants of its own. But it seems to me an obvious deficiency of the Pittman resolution is that it would operate only in favor of the nations which have command of the seas, so that in the Atlantic area it would operate in favor of Great Britain and France. But applied to the Pacific where perhaps the Senator was not looking for the moment, it would operate in behalf of Japan. And he now, in turn, is considering a definite embargo resolution against Japan to make up for that deficiency. It again seems to me to bring us back to the basic point in legislation of this sort. You aim at some particular and concrete situation and you forget or do not know about, or you cannot anticipate, various other situations

in which your legislation may have a completely retroactive and reverse effect to that which you anticipate. I mean, obviously Senator Pittman is not entirely satisfied with his own resolution or he would not be supplementing it by an embargo resolution.

Mr. RICHARDS. Don't you think that the suggestion of some newspapers last week that the President favored the Pittman resolution certainly weakened his position if he once claimed the constitutional authority in other facts and surrendered in some respects also?

Mr. MORLEY. I am not quite sure I got the meaning of that.

Mr. RICHARDS. Don't you think the cash-and-carry enactment would possibly infringe on the constitutional authority of the President along the lines you suggested?

Mr. MORLEY. Well, Mr. Shanley, I think, knows much more about that than I do. I do feel the possibility is there.

Mr. VORYS. Now, we have had some witnesses before us who have proposed this dilemma: That we should have elastic laws, neutrality laws, and so forth, on the one hand and on the other hand that no change in our laws during time of emergency should be made because it would tend to be more unneutral and precipitate trouble. As I take it you feel that you are in favor of having elastic neutrality policies as regards legislation. Do you also feel that a change would in time of stress have very grave diplomatic consequences?

Mr. MORLEY. Well, sir, it would seem to me that if your guiding legislation is sufficiently elastic and is sufficiently general as a matter of guidance rather than of dictation, if I may say so, then you leave plenty of space for the administrative branch of the Government to turn and twist within that general framework in such a way that it will not seem to alter the general policy in the middle of the stream, and will not take what is apparently an unneutral action. And haven't we really achieved this in the case of the Munitions Control Board. I do not want to exaggerate that particular institution but in bringing quiet pressure upon airplane shipments to Japan hasn't it quietly and without arousing any international crisis done just that thing, altered a policy during the development of a situation?

Mr. VORYS. For your information it has not prevented the shipping of \$13,000,000 worth of aircraft, and so forth, to Japan in, I think, the last year. The question I wanted to lead up to was this: Whether you would not feel that the Pittman Act, which in general favors France and England, if enacted right now, plus a specific embargo on Japan, does not reflect the sentiment of our people, the present sentiment of our people as to what they want to do for the present?

Mr. MORLEY. It is very hard for me to answer, sir. That was my opinion a short time ago. So it seemed to me. But the Thomas resolution, with its effort to bring a certain stigmatization on the aggressor, is also quite popular and also has a great deal of support. Which corresponds more to public opinion I really do not know.

Mr. VORYS. Well, in any case, we will be coming back next year and any neutrality law we pass now will not necessarily have to be for the ages, would it?

Mr. MORLEY. I have the feeling personally that the Pittman amendment would be helpful if carefully revised, because I think there are a number of holes in there which might lead to ridiculous circum-

stances. As I said earlier, I think the wording of it, if literally interpreted, might keep people from going to Seattle or Vancouver and things of that sort, even on a ship of our own. That would have to be carefully checked. I should think the Pittman resolution at the present time would certainly meet no serious hostility throughout the country. And its merging of munitions in the general body of commodities is, I think, a very important feature. But I do think that more of our people than some of us tend to realize feel rather keenly that the Nation has not lived up to its traditions and its ideals in refusing to draw any distinction between an aggressor state and the victims of an aggressor. I believe there is rather a feeling of shame on that subject.

Mr. VORYS. Isn't that feeling that we have not been right with reference to China specifically?

Mr. MORLEY. Well, I think it even applied to Ethiopia. I do not think it was entirely China. I think we have undoubtedly a very strong sentiment for China. I think probably it is stronger there than elsewhere.

Mr. BLOOM. Are there any further questions? I believe that I speak for each and every member of the committee when I say that we appreciate very much your coming here today and giving us the benefit of your advice and knowledge with reference to this neutrality legislation. Thank you very, very much.

Mr. MORLEY. You are too good, Mr. Chairman. The only point in my coming down here at all is that in my business I have tried to struggle with this problem in somewhat the same way but with far less responsibility, of course, than you have. And if you are good enough to say my visit has been of some value, and if it has been, I am more than repaid.

Mr. BLOOM. The committee will recess until 2 o'clock this afternoon.

#### AFTERNOON SESSION

(The committee was reconvened at 2 p. m.)

Mr. BLOOM. Members of the committee, we have as our first witness this afternoon Dr. Walter Judd, medical missionary to China. Dr. Judd has spent 10 years in China, and just returned from China about a year ago, and he has some very valuable information that he would like to give to the committee.

#### STATEMENT OF DR. WALTER JUDD, MONTCLAIR, N. J.

Dr. JUDD. Mr. Chairman, gentlemen of the committee, the only justifications that I have for taking your time this afternoon, I think, is, first, because of the fact that I have been an eyewitness to what has been going on in China; and, second, because I feel that in America one of the chief lacks of information is not so much as to how many tons of coal there are in the Far East, how many acres, and how much population, and so forth, as it is to the knowledge of the psychology of the people who live there.

That is, what we can get out of any survey of economic resources, and so forth, means one thing in the hands of Americans, or in the hands of Englishmen, or in the hands of Germans, and means quite

another thing in the hands of the Japanese or Chinese. I think coequal in value with any set of facts is the knowledge of the psychology of the people who are going to use those facts. That is the sole contribution that we who know the people and know the language can make.

Since I returned from China, 6 months ago, it seems that the three most common comments that I have heard in America with regard to the situation over there have been something like these: First, that we already know what is going on; second, that it isn't any of our business or concern or responsibility; and, third, that even if it were, there is nothing that could be done about it without getting America into war. I think that all three of those attitudes, while we easily understand why they are held, are nevertheless erroneous.

First, as to what is going on, I just want to take 2 or 3 minutes to corroborate the reports that you may have heard as to the nature of the so-called conquest of China. It is more than a conquest of China; it is a deliberate, systematic, cold-blooded, calculated destruction, not just of the nation's political independence but of the nation's culture—a civilization that has stood for 5,000 years.

It is a new kind of war. Wars used to be struggles between armies. There was a time when they were struggles between delegated individuals; when one tribe sent out David, the other tribe sent out Goliath, and the tribes entrusted the war-waging function to the two individuals. Their society moved on and decided to entrust the thing to groups of individuals called armies. With each army the idea was to seek out and defeat the other army.

But this is not that kind of war. I think we do not on the whole sense that, and we ought to because it is unquestionably a prototype of what wars are going to be, if we allow them to continue and get into them ourselves. In previous wars, gentlemen's wars, the major attack was on the enemy's armies, and while there was some incidental unavoidable attack upon the other groups, such as the women and the children and civilians, on the whole those groups, including even the prisoners and the wounded soldiers, were exempt.

The war that is going on over there now is a war in which the primary attack, and not the incidental attack, is upon the groups that are unarmed. And of course we see conquests being made in Europe on the basis of threats of attack, or attack upon the groups that were previously exempt.

I was an officer in the United States Army during the latter part of the last war, and when I came back and found out so much of what had been told me was untrue, I went to the other extreme, as I think a great deal of the sentiment in America did, and said that in time of war all propaganda and atrocity stories, and so forth, are false. So when the Japanese Army began to come into China, and we heard stories of what was taking place, I said, "The same old stuff, I heard that once before."

But I want to bear testimony that every bit of it is true, and a tenth has never been told. But the reason I think it is not wholly understood is that most Americans considered it the result of some peculiar barbarism on the part of the Japanese soldiers. That is not the right answer at all. The answer is that they are not defining

military objectives in the way that people used to in "gentlemen's wars," such as railroad stations, barracks, air fields, arsenals, forts, and so forth.

Mr. Bloom. Do they not have special privileges in undeclared wars, the same as they have in China today, different than the gentlemen's wars as you say?

Dr. Judd. They are at least taking special privileges, whether they have them or not. There are no rules for carrying on undeclared wars. In their own language, they always call it a "war," whatever we call it over here.

Mr. Bloom. There are rules for a declared war, but this is undeclared war, and there are no rules.

Dr. Judd. The point I am trying to make is that the hostilities are of a quite different character from anything that we have had in modern times. For example, the attack upon the wounded. I was in my own city when it was captured. There were wounded Chinese soldiers on the wall. One rolled down the inside of the city wall into our own yard. I went out with a big American flag, and a Red Cross flag, to try and bring in these wounded men lying in our compound. We were prevented from doing so by the Japanese guards. All through the city not one the Chinese wounded soldiers could be touched—not because of some peculiar cruelty, I am sure, on the part of the individual Japanese guards, but because they had orders. The Red Cross came into being to take care of the wounded in time of war—but not in this war.

The attack upon the women is not primarily because of some peculiar beastliness on the part of the individual Japanese soldier, I am sure. I knew of two who committed suicide, apparently, rather than do the things that they were ordered to do. The primary reason is because the most vulnerable spot in all of the Chinese armor is the home.

We say in the west that the state exists for the individual; the dictatorships claim that the individual exists for the state. But China for some 4,000 years has said that both the state and the individual exist for the family, and the home centers around woman. Therefore we find this unceasing attack upon the women of China as a military measure, ordered from the top. There can be no question about it. It is not a lack of discipline; they are under discipline doing these things. That is a new day in war.

The attack upon the schools and the universities, again, is evidence of the same thing. China was stable for 5,000 years largely because of first, the family being the unit, which is more stable than the nation. Love of your own blood is more universal than even love of your country. And secondly, because her leaders were chosen from her scholars. While we made heroes out of the men with long swords, she made heroes out of the scholars, men who had long fingernails, and gowns, to show that they would not touch anything with their hands except the pen.

China was able to overcome her previous conquerors because she had a superior scholarship and civilization. Now she is being conquered by a nation which is superior to her in military things, as was true of the previous conquerors, but which considers itself superior to China in all other ways, too. Japan knows what happened to



China's previous conquerors, and why; and has determined that that is not going to happen to it.

Therefore you see this unceasing attack upon the schools so that there will never be in China again in the areas that Japan controls, a chance for a literate leadership and scholarship that might conceivably have stamina enough to eventually wear out and absorb the Japanese conquerors.

In Manchuria 8 years ago, there were about 100 institutions of higher learning, and today there is not one, not even a senior high school, for some thirty millions of Chinese.

And then opium, of course, is the best evidence of it, the systematic, official forced growth and use of opium by the Chinese. I have witnessed it. Our own Province had had no opium grown in it for 27 years. Since the revolution in 1911 there had been no opium. Within 10 days after they took over, the Japanese Army was passing out the seed and compelling the farmers in the areas along the railroad, that were Japanese controlled, to plant it. A few months later one out of five of the fields was white unto the harvest with the poppy.

I wanted to mention these things in the beginning, to bear out my testimony that this is the kind of thing that we are helping happen when we continue our present policy of condemning in words that which we have not found a way to stop helping in deeds.

Now, the second thing, is it any of our concern and responsibility other than to deplore it and feel sorry about it? I think it is, for three main reasons; partly because of America's past, partly because of her present, and partly because of her future. I think that we cannot consider the present circumstances except in the light of our past. Let me mention five or six things so that we can see this situation from the Chinese standpoint.

For 125 years we have been sending out missionaries to open colleges and churches, and hospitals. Unfortunately for China she assumed that because on the whole she found she could trust these missionaries as individuals, therefore she could trust the nations as such from which they came. We built up unwittingly but nevertheless actually, an implicit and unjustified confidence in America as such.

And then in 1899, when China was on the chopping block, and all of the other nations had their "spheres of influence," America announced the Open Door Policy. To our eternal credit we would have no part in the dismemberment of China. That doctrine resolutely adhered to, was enough, coupled with certain other things, to prevent China from being dismembered at that time. The Chinese have always felt that they were saved by America then.

And in 1900, after the Boxer Rebellion, when all of the other nations took their indemnities, America returned hers to China, asked her to build universities, send students to America to study, and help China to become like us.

Mr. Bloom. That was the \$7,000,000 that we gave her?

Dr. Judd. Yes. As a result of that, China has been eternally grateful. It built up an implicit confidence in America, which we are generally unaware of, but which is a part of our past.

After the revolution in 1911, whereas Japan had taken Germany as her model, China said that she wanted to be like us, the sister republic

of the west, we sent over official and unofficial advisors to help her be like us. She is grateful for that.

In 1917 we went to war, and when Woodrow Wilson started out to marshall the democracies around the Allied side, he asked China to go to war. She did not particularly want to go to war but when America advised it and suggested it, she went to war and cooperated faithfully. Then came 1919, and at Versailles President Wilson felt that he had to give in to the promises the British and French had made to Japan, also an ally, and so Shantung province of China was carved out and given to Japan, all of the German rights there, and a good deal more were given to Japan.

That forced the Chinese to be disillusioned in their trust in the West, and they went out with the only weapon that they had, the boycott, and they boycotted relentlessly for 2 long years. It was the worst of all boycotts for Japan, until Japan was being forced slowly to terms in 1921, because she was more vulnerable then than now. She did not yet have her great merchant marine. She did not then have her economic base or diversified markets all around the world. She was more dependent upon Chinese trade.

So just at the point when China was solving her difficulties by the only method she had, we with the best of intentions did something else. We called a disarmament conference in this city. We wanted Japan to consent to a 3-5-5 ratio of naval strength as regards our own and Great Britain's. Japan said that she would do this only if in addition to the scrapping of a great many of our war vessels, and giving up our plans to fortify the Philippines, we would also persuade the Chinese to call off the boycott against Japan, which we took the lead in doing.

China did not trust Japan, and did not trust the British and French, but she did trust America. When we urged and advised and persuaded, she acquiesced. She gave up her strangle hold on the Japanese economy for a piece of paper, because we had signed it.

That is our past in regard to China. I do not think on the whole that Americans are cognizant of it. They are saying, why should we go over and meddle in the Far East. If there is "meddling," it was done then, and not now. I do not think that we can say it is none of our responsibility, when in large degree we led China step by step to where she is today. She was following our advice.

I remember in 1932 when the Japanese were attacking the forts at Woosung, guarding the entrance to Shanghai, one of our reporters wrote back, "These Chinese are so friendly, and innocent, but after all they are so inefficient. Here they had fine forts with fine German guns, and they have not been fired in 15 years. What can you do with people that are so incompetent?" Almost daily one hears something like that, "Here are 450,000,000 people and they cannot protect themselves against 70,000,000 people. There must be something congenitally wrong with them." That is the way our western minds react without knowing all of the situation. Why had the Chinese not kept those forts in good order?

They had not fired the guns since the signing of the Nine-Power Pact. They did not think that they would need them again, because the countries that had sent the missionaries had promised.

I think that is some of our responsibility, because of our past.

Now, about the present: Should we go to war then on Chinese behalf? Never. We were not in the least obligated to do that. China has never asked or suggested or expected that we would send over a single soldier or a single vessel to help defend her sovereignty. But on the other hand, with that kind of a past, she did not expect now in her hour of greatest danger, to find the United States of America, with that kind of a past, furnishing more than half of all of the war supplies to Japan, the indispensable materials that are necessary for Japan to carry out her destruction of China, in violation of that very treaty which we had sponsored, and which we had persuaded China to accept.

That is the thing that hurs<sup>t</sup> us Americans who live in China more than anything else. We almost to a man believe that Japan could never have started and she could not continue 3 months now, her military adventure in China without the indispensable assistance of the United States of America.

I have been bombed myself over and over again, with American airplanes, and it never helps to know where they came from, especially during that first disastrous year of the war; or to know that all of the high-test antiknock gasoline comes from America because it isn't made anywhere else; and to know that all of the lubricating oil for airplane engines and American-made arsenal machinery are the absolutely essential high-grade Pennsylvania paraffin-base motor oils; and to know that one-third of all of the stuff that the planes drop down to kill and destroy is still coming from the scrap iron yards and steel mills of our country.

I am a doctor, and I have worked 8 hours on end, night after night, when the raids were over for the day, removing these things from the bodies of Chinese men, women, and children. I never could go to sleep without wondering if my people back in America knew what they were doing.

If they know what they are doing, and want to do it, then I can say no more, but I am an American citizen, too, and I feel, and we in China feel, that we have no right to allow our country to go on with this kind of a policy, either by drift or deliberate choice, without having faced clearly the thing that we are doing.

Take the matter of our trucks. The single, most decisive factor in the interior provinces where I have lived, for instance, and all of the other areas away from the seacoast and rivers where the Japanese Navy operates, is the American truck. My province lies behind a mountain range on the east, and on the north, the most easily defensible of all of the provinces that the Japanese have succeeded in conquering. The Chinese soldiers were on foot, pushing wheelbarrows, leading donkeys or camels. The Japanese were on tens of thousands of the latest model American wheels. They could get to those 10 or 12 crucial passes first. I saw the six or eight million people living behind the mountains in the area where I worked lose their homes and freedom and things that are dearer than life itself; and it could never have happened without that one item of the American automobile.

I say "American." Some of the other things they could get elsewhere, but they could not get those trucks in adequate quantity except from America. We own almost 80 percent of the world's auto-

mobiles, and therefore our industry is on a mass-production basis as no other country. No other country at present, especially since they are all rearming, produces enough for its own consumption.

One sees endless lines of them, usually 50 to 200 or more in a flotilla, otherwise the Chinese guerillas would attack the smaller units. They go up to the front with reserves and supplies and come back with the wounded and everything movable that is worth as much as 20 cents to sell it, so that the war can be paid for out of China's own loot.

And the Chinese, they may not know where the airplanes and the gasoline come from, but there is no mistake about where the trucks come from. It says right on the radiator cap where they come from.

That thing is hard for us to see. It is hard for us to realize that America has been unable thus far to extricate herself from the intolerable position of being in effect the major ally and the indispensable source of supply, to enable Japan to do that which we have written note after note officially condemning as a crime.

It comes down to this: That the Chinese know that they could have saved their homes and can still save their homes and their freedom and independence if they were against only the Japanese. And I think that I should say at this point that their hopes are a good deal better than Washington's were at Valley Forge. Every American city was in the hands of the British for months. We did not win any major victories until Yorktown. We got our independence only when somebody came to our assistance.

It always strikes me as a little inappropriate to hear Americans saying, as I hear them almost every day, "It is none of our concern what happens to the freedom or liberties of other peoples," we who got our own freedom only because somebody came to our assistance!

China never asked us to go to her assistance, she only asked that we stop helping her enemy in this decisive way.

I say that China could have saved and can still save herself against the Japanese, but she is being driven to the painful realization that it is possible that she is not going to be able to save herself against this combination of the Japanese and our country.

Mr. BLOOM. You would not call that a combination, though, would you?

Dr. JUDD. Yes; they furnish the men and we furnish more than half the supplies.

Mr. BLOOM. But it is not a combination.

Dr. JUDD. In effect it is that, although it is not intentional. I think that our executive department has done all that it could to help China under the existing legislation. It is not intentional, but the result is that. That is what makes it seem not only so futile but even perhaps a bit hypocritical to send notes and pass resolutions condemning that which we continue to assist and that which they could not possibly do without access to our markets and materials.

Mr. JOHNSON. Dr. Judd, if we should take that step as against Japan, would not we be committed by precedent to do the same with reference to Europe if war breaks out in Europe?

Dr. JUDD. I think not. Would you allow me to come to that in a few minutes, because I would first like to make one further point? I said our past and our present and now our future. I would like to

ignore all legal or moral or humanitarian reasons and consider for a moment only our own cold-blooded self-interest in the matter.

I want to consider particularly two things that we are more concerned with in America than anything else at the present moment. One is our trade and prosperity, and the other is our security. I think that those two things are involved in this Far Eastern conflict clear up to the hilt, whether we like it or not.

I heard one of the witnesses say this morning that our primary job was to get our own house in order, our unemployed back to work, and all of that sort of thing. I am thinking of that very thing at the moment, and I believe with all of my heart that that cannot be done when so much of our prosperity depends upon our foreign trade. The way to get our house in order is not by withdrawing ourselves into ourselves, but at least part of the way is by seeing that there is not this constant interruption and destruction of our foreign trade.

When the rest of the world was at war and the men of Europe were out of the factories and the fields we, for instance, in Nebraska, where I lived, plowed up a lot of the land that never should have been anything but grazing lands, and put it into wheat, because we could make money out of wheat at \$2.25 a bushel. We built under the war demands factories that could produce more than we could consume. But the war did not last forever; the men went back to their fields and factories, and we were left with this excess productive capacity.

Either we have got to scrap the excess plants, reduce the industrial and agricultural productive capacity to what we can consume, or we have got to have foreign markets for the excess that we produce over what we consume. To scrap or reduce our cotton production to what we can consume means almost half of the solid South gone, and to reduce wheat production to what we consume would mean almost a third of the acreage of the wheat lands out of production.

That would be very difficult to do, I suspect, short of almost revolution. Therefore, I think that our own prosperity and getting our own unemployed back to work, in large degree at the present moment depend on the restoration of foreign markets.

What is happening? Japan has reduced our trade with China 65 percent in 1938 alone, below 1937, and 1937 was below 1936. To be sure, our trade with China is not absolutely decisive, but it was larger than with any South American country, for instance. And our total trade in the Asiatic Basin, that Japan's conquest would largely put out of commission, is greater than all of our trade with South America.

Then almost every day in the papers we read about a move to increase the subsidies to the sick cotton industry, and yet we see manufacturers and growers vying with each other to sell more stuff to Japan to enable them to get hold of the cotton-growing areas of north China, to develop them so that we can be rid permanently of one of our largest foreign customers in cotton, then we will have to enlarge the subsidies to keep the cotton industry going.

But even more important than any of these, is the threat to us of a Japan using Chinese raw materials which she gets by confiscation—the American manufacturer has to pay for his—and using Chinese conscripted labor, which is being forced into a status of economic serfdom.

With that combination of the natural resources that she gets by confiscation, and this manpower at serf wages, Japan can—and I know that she intends to, because there is no secret about it—build in China an industrial plant, using modern machines, but on human slavery, that can take the whole world's markets in the things that she will produce.

How long can American employers pay or American laborers hope to receive the wages that American laborers must have to maintain their standards of living, and be able to buy back the things that the manufacturer produces—\$2 to \$7 a day for 7 hours of work—and then meet in the world market competition of the Japanese who got his raw materials by confiscation, and pays the conscripted Chinese labor, at the present rate of exchange, 4 to 8 cents a day for 12 or 14 hours of work, under impossible living conditions, using on the whole machines which we ourselves invented and manufactured and sold to the Japanese and taught them how to run.

We are in the process of building up a competitor over there that can put us out of business. She does not need to send over an army or airplanes, I am not worried about that, she can do us far more damage by her price quotations.

How long can we sell not only in Japan, and China, but in South America, Australia, or elsewhere against that competition, when she can make the product for a third to an eighth of our price? And how can we save our domestic markets in those products unless we increase the tariff up to 300 to 800 percent, or put imports on a quota basis? We know what that does in the shutting off of foreign trade.

I think that the economic stake is so great, from no other standpoint than America's own self-interest, that if Japan succeeds, with our assistance, in getting hold of China's manpower and resources, we can elect a whole new administration from top to bottom under whatever party label every 4 years with the fond hope that a political turn-over can bring us prosperity, but we will have nevertheless steadily increasing depression.

I think that opinion is corroborated by almost every businessman in China today, and this is the first issue I have met in China on which the missionaries and the diplomatic people and the business people were absolutely united.

The other concern for our future is America's security. We are worried about that more than anything else, it seems, next to our trade and prosperity. One night last spring out in China a news broadcast came over the radio that that day the United States Congress had appropriated one billion and a quarter dollars for additions to the United States Navy. It said that the Congress and the people were all reluctant to do it because it meant increasing the national debt, which was at its all-time high, and everybody was afraid of bankruptcy; and it meant increase in the taxes, which were already so oppressive as to be throttling business. Yet it was felt that it must be done because it was rumored that Japan was building three super-battleships. We must get ready to defend ourselves against her.

We are bankrupting ourselves or running the danger of bankrupting ourselves, arming ourselves against a nation which at the very same moment we are arming against ourselves. Well, that was very

difficult to explain to my Chinese friends. They said, "Why would your country continue to supply the Japanese with the things which alone allow them to get hold of the Chinese man power and resources and thus become this great military and naval menace, when you yourselves already distrust Japan so that you turn around and bankrupt yourselves arming yourselves against her after you built her up? Why wouldn't you stop building her up, and then you would not need to arm yourself against her?"

I could not answer that satisfactorily. Of course, they were just simple-minded Chinese, and they did not understand American arms trade.

Now, this year we are in the process of building up to 6,000 airplanes, and have voted another big armament bill. Who are we scared of now? Of course, the immediate threat is largely in Europe, but I am convinced that the major reason for our insecurity at this time against Europe again comes from Japan. In the past we have been able to depend upon the French Army and the British Navy, and we cannot do that today because their great possessions are not in Europe, their great possessions are in the Far East, the East Indies, Australia, and New Zealand. If Singapore is lost, Australia and New Zealand are cut off; and the Japanese would rather have the land of Australia than any other possession.

So it is the threat of the Japanese to their possession in the Far East in case they get involved in a war in Europe, which everyone knows has been one of the major reasons for the policies of "appeasement." The English and the French are having to defend both ends, and they have not been able to have all their forces at either end. Therefore we pass another armament bill to protect ourselves against Europe, and we have this feeling of insecurity largely not as a result of Hitler and Mussolini, but because of the threat of the Japanese that is dividing the forces of the European democracies.

There is a three-legged stool, Italy, Germany, and Japan. Everybody is worried mostly about Italy and Germany, and rightly so, but the place to attack that stool, if we feel that it is dangerous to our own future, is the Japanese leg, and not the Italian and German legs. We do not have to knock the Japanese leg down, all we have to do is stop holding it up. It will collapse of itself, of its own instability, and utter dependence upon foreign support.

Eighty-five percent of Japan's supplies comes from four countries, the Dutch, the British, the French, and America, all of whose interests in the Far East are going to be destroyed by Japanese success, which their own assistance alone makes possible. That will be hard for historians to explain. I understand some of the difficulties in stopping our assistance to Japan, but nevertheless that is the result. I am only trying to point out what it is that we are doing to our own future.

Mr. SHANLEY. Doctor, have you any opinion as to whether the British left China so that Japan might have China, rather than to go to Australia or New Zealand or the South Pacific possessions of the British?

Dr. Judd. I think that that was one of the major factors in 1931, when America wanted action, and Great Britain and France would not go along. They took the position that they must "play safe,"

and to take any action would be dangerous, would be "taking sides," and it was, after all, not their business. So they would not take this action.

Mr. SHANLEY. That was in the northern provinces?

Dr. JUDD. They believed the Japanese promises that they would leave their interests elsewhere alone; but that was a mistaken idea, and they face the possibilities directly following from that, the possibilities that may mean the loss of their Empire eventually.

Mr. SHANLEY. Right after the Manchurian incident, when Secretary Stimson told the Japanese Ambassador that we abhorred that action, and the Japanese said that we did not have to worry about it because they were not interfering with the independence of Manchuria, that raised the issue immediately. Then we had the subsequent action of the Council of Ten of the League of Nations. But from that, did not the British have some intimation that they were going into south China, too, from 1931 on?

Dr. JUDD. I think that the British out there did not feel that way. I know one of the high officials in Hong Kong, and even as late as October of 1937, 2 months after the war broke out, they felt that they were not to be touched there in Hong Kong. He is a magistrate in Hong Kong, and he thought that was out of the question; there was no danger of anything going wrong. Now they know differently.

Mr. SHANLEY. What do you feel about London, the city of London crowd, are they the ones that are doing this, allowing them to go into South China without any protest?

Dr. JUDD. I think that Sir John Simon, whatever the reasons were behind it, that is Sir John Simon and the Tory government in 1931, made one of the most colossal blunders from the standpoint of statesmanship, considering only the interest of the British Empire, that anything in modern diplomacy records.

Mr. SHANLEY. We heard a witness testify here yesterday that American officials had not acted quickly enough in the Manchurian situation. As a matter of fact, I asked him if we had not done everything that we could, and whether we had not been let down by the British, which is my position, and he maintained that we had not acted soon enough.

As a matter of fact, I said that we had acted within 4 days, if I am not mistaken, and I am going to put into the record later on proof that we had acted as expeditiously as possible.

Dr. JUDD. The action taken by the American Government at that time is going to go down in history as one of the finest in our diplomacy. The Manchurian seizure was the first break in the post-war peace machinery erected to solve disputes by other than war methods.

If the nations had said to Japan at that time, that they would not support here by allowing her to get supplies from the western nations, if that had been done then, and the first precedent set down, it would have been so much easier with Italy and Ethiopia. Every time that peace treaties are upheld, it makes it easier to do it again, and every time that they are broken, it makes it easier to do that again.

Mr. ALLEN. Dr. Judd, inferentially, I believe that you have answered these questions, but I would believe that if we withdrew our



economic support to Japan at this time, that her warfare in China would bog down?

Dr. JUDD. Yes.

Mr. ALLEN. And fall of its own weight?

Dr. JUDD. Yes, sir. I am perfectly convinced of that, and from what I have seen in northern China and in central China, and in eastern China, I am perfectly certain in my own mind that they could not or at least they would not continue the war beyond 4 months, if they knew that America's participation was withdrawn.

Mr. ALLEN. Now, let me follow that with a second question. Could she hold and consolidate the gains which she has already made in north China?

Dr. JUDD. No; that is equally certain; she could not do it.

Mr. ALLEN. That is equally certain?

Dr. JUDD. Yes.

Mr. ALLEN. Now, I would like to follow that up if I may. You understand, of course, that we are holding neutrality hearings, and what you recommend is not neutrality for America?

Dr. JUDD. That is right.

Mr. ALLEN. What you recommend is, in the first place, self-defense of America's interests, or defense of America's best interests?

Dr. JUDD. Yes, sir.

Mr. ALLEN. Now, do you think that we could treat legislation such as you are recommending, as an entirely separate bit of legislation, from our general neutrality policy? We are apt to be confused in our discussion of these various things.

Dr. JUDD. Yes. I should like to go on to that point. I think that we could do it separately; but I think it is better if it is done in with the general consideration of the neutrality problem.

Mr. ALLEN. Could we, in order to perhaps explain our attitude, and make our attitude compatible with our neutrality policy, pass such legislation in the interest of the conservation of our own natural resources? It has been said here that we have sold Japan in the last year as much oil as there is in Teapot Dome, the Navy's own reserves. It seems to me that that is pretty dangerous. To sell such large quantities of a natural resource, of which we only have 15 years' known supply.

In other words, aside from all of this neutrality discussion we are having, could we not approach this problem first of all from the standpoint of our own defense in the future; and, secondly, from the standpoint of conservation of a very vital natural resource? We do not have a limitless supply of that.

Dr. JUDD. I agree with that wholly. I think that we are squandering the natural resources that belong to our children, helping to build up a potential enemy that we are having to bankrupt ourselves to arm ourselves against at the same time.

I think that there are also legal reasons because when Japan violates her treaties with us by going into China, her nine-power pact with us, she is not only committing a crime against China; she is committing a crime against us. So, also, there are moral reasons; surely there is no question either in the official statements or the unofficial polls of public opinion as to where the judgment of the American people is on this thing. Also, there are, humanitarian

reasons and the instinct of self-preservation and self-interest. This is a case where legal and moral and humanitarian and self-preservation reasons agree in demanding, not that we go out to punish Japan, that is not the point; but that we stop our own disorderly action, if I may call it that, in assisting Japan in her crime. It was said here this morning, we must not go around "policing the world." I do not concede that is an accurate statement of what I am advocating. Primarily it is a matter of policing ourselves, and not policing Japan.

In almost any court of law, consciously to aid and abet a criminal in his crime is to be accessory to the crime itself, and, insofar as we call it a crime (we have done it officially and unofficially) then for us constantly aid and abet it is to be guilty of the same thing ourselves.

What we ask is that we police ourselves, not on the basis of punitive action against Japan, but because of our own self-respect and our respect for our own treaties that we not be in the position of helping a nation break its contract with us.

Somebody said that that would be unfriendly. Suppose I have a contract with you, and I break the contract. Could I consider it unfriendly if you refuse to give me the things necessary to enable me to break my contract with you? Yet that is exactly what we are saying.

People say that we should not take sides. I think that phase is not an accurate statement of the situation. It implies that we are precipitating something choosing between Japan and China as if they are on an equal footing with us, but they are not. One is keeping its treaty with us and the other is in direct violation of its treaty with us.

Therefore I think that we ought to have in place of the neutrality legislation, legislation on the principle of the Thomas amendment. It would be a homologue of the Johnson Act, which provides that if a nation has borrowed money from us and repays according to its contract, it can borrow more; and if it does not, it cannot. We take sides, but not on the basis of caprice or our likes or dislikes, but on the basis of its keeping or not keeping its contract with us.

What incentive is there for a nation or men to keep contracts if they can break them with impunity and have exactly the same treatment that the other nations get who have gone to the trouble of keeping their contracts? We write and talk about the sanctity of treaties and contracts, but I do not see how we can hope to reestablish that—and there is certainly no ultimate alternative to anarchy except government by law—I do not see how we can hope to establish that when we ourselves are assisting in this Japanese lawlessness in a most decisive way.

I should like to see legislation making it impossible for Americans to sell and ship war materials to nations at war in violation of their treaties with us, whatever legal verbiage may be used, whether it is the negative way, as in the Thomas resolution, of exempting any nation that has not violated its treaty with us from the application of the Neutrality Act; or the positive way of providing that whenever the President and the Congress, if too many are unwilling to put it in the hands of the President alone, find that a nation is at war in violation of its specific treaty with us, then that nation by its own act automatically forfeits its right to access to materials, credits and loans, and markets in America.

It cuts itself off. Our act is not provocative. We do not label the nation, except that we say that it is not keeping its contract with us. It is not punitive action, we are not trying to police Japan or impose our will on it, we are merely saying that if it wants to carry on trade with us it must abide by the rules that it itself has agreed to—not our rules, the joint rules.

Mr. ALLEN. If I may continue, then, you have already done the very thing that I hoped that you would not do, you have confused this issue with our general neutrality policy again. I have been trying to segregate it for reasons of clarity, with our own defense, and with the preservation of our own natural resources.

The minute that you bring this specific case into our discussions of neutrality in general, I think that you are weakening your particular case, because whatever we might do will be an unneutral act, if we follow out your suggestions.

Dr. Judd. Yes, I think that that is right. It is unneutral, and my position is, why should we not be unneutral in the face of that kind of a right and wrong, a direct treaty violation. How can we treat the one who keeps its contract and the one who does not, alike?

I said in answer to your question, that that is one way of handling it, on the basis of self-defense, and conserving our own natural resources. Another way that it could be done, I think, is to include it in the general legislation, that is on the basis of a general principle such as is embodied in the Thomas resolution, in the Senate.

It can be done either way. My point is that I think that America from the standpoint of her own self-interest has got to stop or ought to stop her decisive assistance to Japan in her march toward domination of the Pacific. If she gets control of China, there are still two essential war materials that she has not obtained. One is oil, and the other is rubber, and they are in the Dutch, British, and French East Indies, those places are next on Japan's list, and almost every Japanese official with whom you are on good terms, as I am with many of them, talks about it plainly. She cannot get those East Indies without going into the Philippines.

There we are faced with a head-on clash, and we have either got to go to war, or get out in an ignominious way. Personally I think (and this is a little parenthetical), we ought to make up our minds now what we are going to do about the Philippines then. If we are going to defend them, we should defend them; and if we are not, we should tell the Philippines *sub rosa* and let them make their own peace with Japan, not string them along as Czechoslovakia was strung along, and then deserted at the last moment.

Mr. JOHNSON. As I understand your position with reference to violation of the nine-power pact or any other treaty, your position is that a domestic law that has no penalty for its enforcement is a dead letter, and amounts to nothing, and a treaty that stands in the same category, and there is no way of imposing a penalty upon the one who breaks the treaty, then the treaty is of no effect unless it can be enforced, and the only way to enforce it is either by economic pressure, or by war, is that right? And in this instance you would apply the economic pressure?

Dr. Judd. But not primarily with the idea of punishing Japan, as much as with the idea of extricating ourselves from this position.

In the Johnson Act we do not say that if you refuse to pay your bills, we will send over the Army and the Navy. We say that you can refuse to pay if you want to, but you cannot borrow any more from us. And so we say to Japan, you can break these treaties if you want to, but you cannot get any more supplies from us to do it with. That is the point, I think, we should proceed from the point of view of our own propriety and legality of action.

Mr. JOHNSON. I had it on more fundamental ground. Why enter a treaty if there is no way of seeing that the treaty is carried out, that is a little more fundamental than the other, but why enter into a treaty if it does not mean anything.

Mr. VORRS. Coming back to your answers to Mr. Allen's questions, Doctor, whether we would have a law like the Thomas amendment, or some other law, what you would contemplate would be that finally either the President or the President and Congress through legislation signed by the President, would have to legislate an embargo against Japan, is that true?

Dr. JUDD. Yes.

Mr. VORRS. You could either have a lot of generalities and then start in and do it, or you could just do it?

Dr. JUDD. By specific act; yes, sir.

Mr. VORRS. Yes; but in either case, either the President or the Congress would finally have to name Japan, or you would not get the results that you are after?

Dr. JUDD. That is right. Have we not already named her several times in our notes to her, named her as the violator of our treaty? Certainly on October 6 the note of the Secretary of State said that she was not keeping her promises in the Nine Power Pact.

Mr. VORRS. I think that we have, and my own present judgment is that the next thing is to just name her again, and the less territory taken in the better, but I wanted to bring out that no matter whether we make it specific or general, unless and until we name Japan, either have the President or the Congress name Japan, we are not going to get any embargo against Japan.

Mr. BLOOM. What you mean to say when you name her, you want to really name her?

Mr. JOHNSON. He wants one step instead of two.

Mr. VORRS. That is my thought.

I have one other question. At some time in your discussion, I wish that you would state what you think might be the results by way of reprisals or otherwise if we did name Japan, either generally or specifically.

Dr. JUDD. I should like to dwell on that particular point, because that is one that I have the strongest convictions about. I was in China when the Japanese sank the *Panay*. My own estimate of that is that it was done for two or three reasons: One reason may have been an attempt to try out what the attitude of the western powers would be; but the major reason, as I got it from the Japanese with whom I was associated, is that they have all been told from the very beginning that their ultimate enemy is across the North Pacific, America; but as long as they are dependent upon America for supplies, until they get control of China, they have got to coddle America along, so to speak.

The next thing that they had been told was that it would be a 3 months' war. They thought that when they had captured Nanking, the war was over. They didn't need America's assistance any longer; they could "give us the gate."

I think that the sinking of the *Panay* was a foretaste of what is going to happen wherever there are Americans or British over there, if the day comes when the Japanese have victory completely within their grasp. The real and strongest evidence of that was what happened after they found that the Chinese did not collapse and did not sue for peace; found that they still needed our supplies, and when the United States and Great Britain took strong stands against the attack on their vessels.

I was waited upon by Japanese almost every second day with presents, and all of us westerners were—candy, sardines, canned goods, and so on. They could not do enough for us. They had the "jitters" for the next 3 months. They knew perfectly well that America was not going to send over her Army and Navy; they were afraid that we would wake up and shut off our supplies, and then they were done for.

There is, of course, a danger of reprisals. I think that the major reason that this action to shut off supplies to Japan has not been taken by America is the fear that somehow it might lead us into war. I do not believe that it is after all primarily greed for the profits from the trade; more of it is due to the lack of information as to what is going on, and lack of concern, lack of foresight as to what it may ultimately mean for ourselves. A lot of it is due to our preoccupation with our own sick economic order, and the fear that if we were to dislocate a little bit of trade, it might give us another relapse. That was one of the major factors in Britain in 1931. The pound had just gone off sterling 2 or 3 weeks before, and they were afraid to do anything about Manchuria that might conceivably endanger their precarious financial position at that time.

The main reason, however, that we have not done anything is the fear that it might lead to war with Japan.

I think that that is an utter bogey at the present time. Let us look at it realistically. If Japan is clear up to her ears trying to defeat the Chinese with our assistance, just how in the world would she defeat the same stubborn Chinese and the United States of America without our assistance—assuming, for the sake of argument, that if we were at war with her, we would not be also helping her at the same time? And with Russia there also?

We are holding up a bogey of what might possibly happen as a result of something we do, and we refuse to look at what is happening and is likely to happen as a result of what we fail to do. Japan cannot conceivably go to war with us now; there is nothing that she can do or threaten, in my opinion, that could justify or require or would be usefully served by our going to war.

Even if she confiscated all of our property over there—which I do not think that she would do because she has an awful lot of property in this country—and even if she cut off the heads of some of our missionaries or business people who refused to leave under the advice of our Government, there would be no possible justification for going to war. All we need to do is "sit tight" and wait and she

must come to terms. She cannot carry on the war without our supplies, and furthermore she would not, on the basis of the psychology of the Japanese as I witnessed it. She would not go ahead and exhaust herself in trying to fight out a war with America; that would be suicide for her.

If she knew that America was going to take this action, she would find Oriental ways of getting around the peace table and settling the thing, which is the way I would like to see it solved, not on the basis of the prostration or destruction of Japan. I do not want to see Japan destroyed and left as a festering sore as the Central Powers were left in Europe after the World War. I would like to see the Japanese military stopped through lack of supplies, and discredited at home so that there is a chance for the Japanese people, the liberal elements, to get the upper hand, and then have their interpretation of the way in which the Japanese can best serve the true interests of their Emperor.

I think that America by the contrast between her words and her actions has gone back on and let down the liberal groups, the peace-loving groups, and the commercial groups in Japan, who opposed the military venture. We thought that it would be unkind to them, to take any action against them; but it was more unkind to continue as we did, because it undermined the moral position they had taken.

The military party had said that the thing that would count was not right but might, cool steel; nations would respect them only if they went out and conquered; and they have demonstrated that they were right. The liberal group had said, "If we do that, the foreign powers will not buy our goods, and they will not sell us war materials, and we are then isolated and bankrupt."

But the military have demonstrated that their judgment of the western powers was right; the liberals' mouths are closed as long as we continue to help Japan.

Mr. SHANLEY. I was going to say that in 1931 the preoccupation of England with the depression and their own troubles also coincided with the passing of Baron Shidehara. To what do you attribute that? Was that the fear of the oncoming Chinese power, as it moved on with the Comintern?

Dr. JUDD. You mean the passing from power of Shidehara in Japan?

Mr. SHANLEY. What caused that? That was a revolution in feeling among the Japanese.

Dr. JUDD. The chief thing that caused that was his very success. He was succeeding in developing cooperation and commercial intercourse on the basis of the closest cooperation between Japan and China, on the basis of reconciliation, and the war party did not want it on that basis. They had to get rid of him, because his success was winning too much popular approval for his peaceful policies.

I was at a tea in the Japanese foreign office one July afternoon in 1931, when he made this statement:

In Europe if France and Germany cannot learn to get along together and work out their problems by other than methods of war, Europe has no future. Just so in the Far East with China and Japan, these two countries which lie here side by side and need each other. They need our factories, and we need their raw materials. If we cannot learn to solve our disputes by other than war means, then the East has no future, and nobody knows this better than I do.

Mr. SHANLEY. Is it not true that when we invoked the Briand Pact in 1929, when the Chinese seized the Russian Railroad, Japan applauded it. They said that it was a fine example of the Briand Pact in practical working.

Dr. JUDD. Yes.

Mr. SHANLEY. Now, to go on, is it not true that most of our treaties, unfortunately, are nothing more than moral hopes? We do not provide any penalties, and, with the single exception of probably the League of Nations, there is no recourse in any of our treaties to either a higher power or to some economic weapon that we can put in there as a penalty.

The Nine Power Pact is, after all, a nine-power pact, and it means the action of nine nations, so that, while I appreciate that the Chinese may be bitter against us for not acting, they must also appreciate that it was a cooperative action.

Dr. JUDD. They do appreciate that, and they know that America has done all that she could under the present legislation. They are appreciative of that. They are not bitter. They are disappointed, but not bitter.

They trusted America more, they signed the treaty because we urged it, and they did not trust the others. Therefore they perhaps should not have, but they did, put more implicit confidence in us than in any other nation; but they have felt that we were under no obligation to go to war for them or anything of that sort.

Mr. SHANLEY. Do you feel that we have misled them by these high-sounding treaties?

Dr. JUDD. Yes; I am sure of that. The pathetic faith of the Chinese people in America is a pitiful thing, and for Americans who knew it was not wholly justified.

Mr. IZAC. Dr. Judd, give us the practical effect of this embargo that we would declare against Japan. It is true, is it not, that we supply one-third of these munitions and supplies that she must have, and that the total of 85 percent is made up by America, France, England, and Holland?

Dr. JUDD. Yes; that is right.

Mr. IZAC. Now supposing that she did not get the Fords and General Motors trucks from America, what is wrong with the trucks of France?

Dr. JUDD. Because the other nations are all rearming and practically every one of them is buying in our country, because they cannot produce enough for their own consumption. Their industries are not on a mass-production basis in those items as ours are.

Furthermore, while of course we should not gamble on this, I think that there is good reason to believe that the British and the Dutch and the France would take the same action that we take now, as they failed to take in 1931, with disastrous consequences.

There are two reasons why they will do it now. First, as I said a while ago, they know now that the Japanese did not stay in Manchuria, and will not stay in China; their own interests in the South Seas are in danger, and if America would take this lead, they would endanger their own interests not to follow our lead.

The second thing is that if we were to take the same lead now that Stimson took in 1931, they would have to follow our lead, I think,

because of their concern about Europe. If they refused to cooperate now, they would alienate American good will so that there would be no possibility of getting American assistance in case they get into a tangle with Mr. Hitler and Mr. Mussolini.

Furthermore, Mr. Butler, the Under Secretary of Foreign Affairs, said twice in the House of Commons last November and December, that while Great Britain could not take the lead in the Far East because her commitments in Europe were so great, she would go just as far as America, and you see that we loaned \$25,000,000, she promptly loaned \$25,000,000 also.

And there is a further thing that I have heard—I do not know from the inside of the State Department, but I have been told in several places by people that are presumably in the know—that Mr. Chamberlain called in Mr. Kennedy just before Munich and asked him what the United States might do in case England got in trouble in Europe and Japan moved on their possessions in the South Seas. Mr. Kennedy, of course, had to answer, after referring to Washington, that the President could promise nothing, that such power is in the hands of Congress.

Many people have felt that that was one of the contributing factors to Munich, that if England had been sure that we could take over policing their possessions in the Far East, protecting them against Japanese attack, that the British stand in Europe would have been a great deal stronger.

Therefore, if we were to take action of this sort, not to police their Asiatic possessions but merely to take the negative side of saying that we will not continue to supply these war materials to Japan, I feel sure that they would take exactly similar action, because if the Japanese could not go to war with us on top of their war with China, how could they go to war with us and England and France and Holland on top of their war with China?

Mr. IZAC. But the greed for profits of the Dutch, and the French and the British, perhaps even to help their rearmament program in their home countries, might that not be a reason for their continuing to trade with Japan, and give her the very things that we would be denying her?

Dr. JUDD. I do not think that there is any possibility of that now because they are so scared for their own possessions in the Far East. I do not think that there is any danger of that.

Mr. IZAC. You really think that this embargo that we would declare, would be the effective thing and bring about the cessation of hostilities within 8 months?

Dr. JUDD. I do, sir; and it can be done with minimum risk and danger to ourselves, and minimum cost to ourselves.

Mr. IZAC. Of course, you realize that a great many Americans are insistent that the theory of destruction of international trade means greater chaos at home, and therefore more danger to us in an internal sense, than the danger that you have presented to us here today, in an external sense?

Dr. JUDD. I think that the answer to that is the question of losing the trade now, or losing it after a while. If we lose it temporarily by this embargo against Japan, we will get it back, along with the enormous good will of the 400,000,000 Chinese, the one great remaining undeveloped market in the world.



If we allow this to go along, little by little, as England did from 1931 to 1938, we wind up with a loss permanently. It is not a case of losing or not losing, it is a case of losing temporarily and getting it back, or losing it permanently, if Japan gets control of China.

Mr. Izac. Do you suppose that this committee could convince the traders of America that that would be the best thing for their interests in the long run?

Dr. Judd. I think that you could, sir. I have talked to Chambers of Commerce and Rotary and Kiwanis Clubs at least two or three times a week, at such places as Philadelphia, Buffalo, Pittsburgh, and Chicago over the last 6 months, and almost never has a businessman come up and said anything against it. On the contrary I have heard them say, repeatedly, "Well, I have had an uneasy feeling all along that we were doing that thing, destroying our foreign trade and building up competitors for the sake of just getting through this next year's balance sheet; but in the long run it is short-sighted."

I find constantly businessmen who say, "If the Government will do it so that it will not be just my sacrificing myself and my stockholders, I will be glad to have shut off all of our trade with Japan. I am glad to sacrifice the little bit that is mine, if the Government will stop us all."

Mr. Izac. How about the American women and their boycott?

Dr. Judd. I find that that is gaining tremendously. Some of us are working on it constantly. We are giving roughly \$100,000,000 a year to Japan, for silk, that would otherwise be going into our own sick cotton and rayon industries, and it seems to me utterly short-sighted to be doing that.

For instance, my wife has not bought any silk for a long time, and she could not do it because she would feel the blood of innocent Chinese running down the back of her legs. She knows what bought the bombs, silk, and she would rather go in cotton, rayon, or wool, not matter how uncomfortable, for the rest of her life, than eventually send over one of our own children; and that is the alternative.

I think that this can be solved now by economic and financial and industrial measures, and if we do not solve it now it is going to be solved after a while by war. If we refuse to choose these methods now, we are choosing the methods of war later, and there will be no reason for crying about it then.

Mr. Izac. There is one further question. Do you think that we could obtain the same result by a form of basic law that we would enact, declaring that we would exert the same kind of pressure, economically, to keep foreign nations out of our zone of influence, if they did not conform to similar treatment to us, in their zone of influence?

Dr. Judd. Yes; that is the moral principle, and it meets, for instance, it seems to me, the requirements that Mr. Morely was talking about this morning. It is sufficiently flexible, it lays down the principle, and it takes America out of the immoral and dangerous position where she now has placed herself of telling aggressors in advance, Go ahead and do as you please, and we will treat the victim the same as we do you.

I think that we can take America and restore her to a position of tremendous influence in the world without firing a shot. We have

no right to underestimate and discount the tremendous economic and financial and industrial power of America, and to assume that there is no way that you can combat aggression except by going to war with it.

That is what most Americans are assuming, that there are only two alternatives, to completely lie down or to go to war, and I think that those are false alternatives. We cannot serve or save peace and democracy by going to war for them; and I am equally sure that we cannot save them by just doing nothing. These economic measures are not ways to war, I think that they are the ways away from war. I don't believe what one gentleman said this morning that there is a whole section of America that is trying to get America into war. That is, to put it as a doctor, everybody wants the patient to live, but the question is, to operate or not to operate; and if not to operate, what medicine should we give him? Each is advocating what he is advocating in the belief that it is the way to keep America out of war.

Some will say, "Can you guarantee that if we took these economic measures it will not lead America to war?" Of course I cannot guarantee that, but can you, or speaking to whoever is asking me, can the other person guarantee that going on as we are now is not going to lead us into war? Indeed he cannot. We have been following this policy for 20 years, of not taking sides, of doing nothing. Is it keeping America out of war? We are in more danger than we have been for 20 years, and if war comes as a result of what we fail to do, it is just as disastrous and as much our fault as war that comes as a result of anything that we do or have done.

Look at England's difficulties today. Surely they have arisen not so much from anything that she has done as from the things she hasn't done since Versailles. Is that not so?

Mr. KEE. Doctor, you stated very clearly that it is your conviction that if we take these measures of embargo against Japan, at this time, for instance, there will be no reprisals on the part of Japan because the country is in such condition that they cannot afford to.

Dr. JUDD. Yes, sir.

Mr. KEE. They cannot take that course of action?

Dr. JUDD. No.

Mr. KEE. Now, we do know that the Japanese Military Party, from what we know of their action, have taken some very long chances, since they started.

Dr. JUDD. Yes, sir.

Mr. KEE. And we may be able to convince ourselves, as you are convinced, that that government is not now in a position to take these reprisals upon us. What is your opinion, do you think that the Military Party in Japan that is now in control there, are convinced of the same thing?

Dr. JUDD. I think that that is true.

Mr. KEE. That it is impossible for them to do it under the present conditions?

Dr. JUDD. I think that that is true on the basis of my own contact with them, because they conquered my city months before I left there, and I had daily dealings with them. They were very friendly to me personally, always asking me over to tea. One day I inad-

vertently mentioned that I had been an officer in the United States Army, and they thought promptly I was on their side.

I was embarrassed, because they thought anybody who had been an officer in any army would, of course, think as they thought. In our hospital staff, we had 35 nurses. We had not had a case of rape in our compound, and that was the only place in town that had not had it. To maintain the safety of our own staff I had to give the appearance of acquiescing, or at least of not opposing them; and I could not acquiesce, and still be true to my own conscience.

That is, I chafed under the inability to bring home to them the fact that my country did not approve of what they were doing, it disapproved—but what could my words say?

The Japanese say, "If America really disapproves of what we are doing, surely she would not keep on selling us the stuff to do it with."

They are utterly nonplussed by our continuing to write them notes protesting, when we are at the same time furnishing them war materials. The Oriental does not do that kind of thing. He never believes any words if they are in disagreement with deeds; he himself uses words to cover up what he is actually doing, and he assumes that we are doing the same thing. Our notes are worse than useless.

I believe if the military thought that we were going to cut off our trade as long as they are invading China, there would be a scurrying for cover; and there would be ample opportunity to leave the door open for that because our purpose is not to destroy Japan. I have spent summers in lovely Japan, and I am in some respects more sorry for the Japanese than I am for the Chinese; because the Chinese know in their hearts that they are right even when they are going down; while hundreds of my Japanese friends cannot look me straight in the face. There is nothing that they can do about it, but they know that their country is wrong, and that is a devastating thing to happen to any person.

I think it is the kindest thing in the long run to the Japanese as well as to China. It is the only way the people can be liberated from the Military Party.

Mr. KEE. You believe that they are well aware of their own weak position?

Dr. Judd. Yes. Every day that the war went on, their position would become less tenable; but on the other hand nothing succeeds like success. Thus far they have had military success and if the rest of the world marches along with them, what can the Liberals of Japan say?

Mr. Broom. The committee is very much indebted to you for the very valuable information that we have received here today, and thank you very much for coming here.

Dr. Judd. Could I just sum up, perhaps, in conclusion? It is my conviction, first, that America does have, because of her past, her present, and her future, enormous stakes in the Far East, from legal, moral, humanitarian, and self-interest standpoints.

Second, that Japan's utterly lawless action, coupled with American substantial support thereof, are systematically destroying our interests in China. Our investments there, our trade, our cultural

and missionary enterprises, our good name and prestige, the traditional friendship and respect that China has had for us, as well as our world trade, the security of the Philippine Islands, and ultimately of ourselves.

Third, that concern for America's own highest welfare urgently requires that we extricate ourselves from the intolerable position of aiding and abetting Japan in her illegal and criminal action against China and against ourselves.

Fourth, that we can accomplish that end by the nonmilitary means of stopping our partial financing of Japan's war through our purchase of her goods and by placing an embargo on the sale and shipment of all war materials to her as a nation breaking her peace treaty with us.

Fifth that the use of these methods now will have minimum cost, and almost no risk to ourselves, and will have enormous benefit to America, and incidentally to China, to world peace, and in the long run, to the Japanese people as well.

Sixth, that not to take such action now, to get out of this partnership, is fraught with enormous danger to us, and to all humanity, and its hope of peace.

I think the issue is greater than just the fate of China, and of Japan, and even of America. It is the hope of mankind for peaceful ways of solving the disputes which have always arisen and always will rise, for solutions other than the barbarous and suicidal slaughtering of each other.

Mr. BLOOM. Thank you very much, Dr. Judd.

Mr. BLOOM. Mr. Matthews will be with us a few moments before we call the next witness.

#### **STATEMENT OF WILLIAM R. MATTHEWS, EDITOR AND PUBLISHER OF THE ARIZONA DAILY STAR, TUCSON, ARIZ.**

Mr. MATTHEWS. I come here today as a former soldier who, as an infantry platoon leader in the Fifth Marines, saw action from the beginning to the month before the end of the war, when I was wounded.

I appear as an American citizen and taxpayer and editor who has to keep in pretty close touch with the people. What I have to say here this afternoon I have tried out on our own people, and our own people are about a cross-section of the United States, because there are comparatively few natives of Arizona in Arizona.

In the first place, I cite three general points:

The first is that we should at all times maintain our complete freedom of action; that we should under no circumstances make any binding political commitments.

In the second place, the guiding principle should at all times be our own self-interest.

In the third place, we should recognize that change must go on, and will go on; that if we do not permit change to go on by peaceful means, it is going to go on by forceful means.

Now, going back to the first point: On the matter of not making any political commitments.

I believe events of the last few years reveal a tremendous moral break-down throughout the world, and that neither treaties nor spoken words are to be banked upon. I think that we would come in for some extreme disillusionment if we placed too much faith in treaties.

There have been some governments that would have liked to have lived up to their solemn obligations, but they could not live up to them simply because they would be overthrown if they did. Incidentally, that is what happened in Japan.

The second point is the matter of our own self-interest.

I think that that should be at all times our guiding principle, and to that effect I am absolutely opposed to the present Neutrality Act. It restricts our freedom of action and it prevents us at times, I believe, in acting in our own self-interest. I think it is to our own self-interest that France, Britain, and Holland be not destroyed. When the British fleet disappears from the seas we will have a tremendous job of policing to do, because, whether we realize it or not, the British fleet has been a world policeman.

As to France, I think it is vital that France and Holland and Belgium stand as a buffer against the tremendous force that is being built up there in central Europe. I think it is high time that we realized that both Hitler and Mussolini owe their success to the fact that they have deliberately broken their written word—and that holds true of Japan—that they have sized up their opponents and have seen that they could go and do certain things without precipitating hostilities.

I clung to that belief all last year, from the time of Mr. Eden's resignation in February, up to the day before Munich. I wrote countless times that there would be no war in Europe, because the whole game of Hitler and Mussolini has been to size up not merely the government leaders, but the people themselves, of the opposing nations, and to go just as far as they could go, without precipitating war. To a great extent I think that that still holds true, and that is where this matter of neutrality legislation comes to the point.

I think that it would be absolutely shameful and cowardly for the great United States of America to haul down its flag from the high seas and literally scoot for cover. I think that we should be as neutral as we can be. I think now is the time to adopt a bold policy and repeal the neutrality legislation. That would at once inform Hitler and Mussolini that France and Britain could get munitions here in the United States. It would be one of the most powerful arguments for peace in Europe today.

Let them know further that we are going to back up our commerce on the high seas, even in time of war. If necessary convoy ships. Neither Hitler nor Mussolini are going to go to war if they know it is going to bring the United States in, and consequently I think if they knew that and realized that, they would adopt a much more moderate policy.

I think that this matter of economic sanctions can be answered by some history. Take the South in our own Civil War; the South held out against military and economic sanctions for 4 long years.

In more recent times the Soviet Union held out for 4 years successfully against economic and rather weak military sanctions. They won out because the economic sanctions lacked support of military sanctions.

**Mr. BLOOM.** You believe it would be advisable to repeal the present Neutrality Act in its entirety?

**Mr. MATTHEWS.** Absolutely. Go right back to where we were, and instead of placing so much faith in written laws, why, place our faith in our own strength and in the justice of our own cause. I think that it would be terribly dangerous and futile to enact any kind of provision distinguishing aggressors from victims, because there are all kinds of ways around that.

Actually France invaded Germany in 1870, declared war on Germany, although in a sense Bismarck precipitated that. Skillful statesmen can do that again. I should say this: That I know that when a friend of mine gets into a fight and I see he is getting licked, and I do not want to see him licked, I do not stop to ask whether he is the aggressor or the victim.

**Mr. BLOOM.** That is where you get into a fight, and what we are trying to do is keep out of a fight.

**Mr. MATTHEWS.** I think by being strong and adopting a policy and daring a bully to touch you you will stay out of a fight, but if we start running for cover, hauling down our flag from the high seas, why, the effects internally in this country will show what the inherent courage of the American people is, because we are not a nation of cowards.

**Mr. BLOOM.** Would you go as far as Dr. Judd? You heard Dr. Judd's testimony. Would you go as far as he did, to endorse what he said?

**Mr. MATTHEWS.** No, indeed. I do not endorse any kind of economic sanctions.

**Mr. VOYTS.** Well, do you think that we have no self-interest to serve, then, in the Orient?

**Mr. MATTHEWS.** I have been over there in the Orient; I have traveled as a working newspaperman; I missed the hostilities there by 3 weeks. I was in the office of one high official there in the Nanking Government; I interviewed the foreign minister; but just before I went in I was talking with one of the high officials—this was on June 4, 1937—and in talking with him on the Japanese situation he said to me:

Oh, we must fight Japan, and we must fight Japan soon.

Well, I thought he was just giving vent to his feelings, and I did not use that publicly, because in a sense it was told to me in confidence. I had the highest respect for those young men in the Nanking Government; they were the first honest crowd to govern China, I would say, in several centuries; but they were young and inexperienced and allowed themselves, I think, to be pushed into hostilities there by commintern. Of course, that is why Chiang-Kai-shek got free.

**Mr. BLOOM.** That is not the answer to my question.

**Mr. MATTHEWS.** Well, leading up to this, I will get back to your question; until we are ready to go over into China and loan money and supply technical and even administrative aid, do for them about what we have done for the Philippines, I think that it would be futile and a very cruel disillusionment.

I maintain that there are not enough educated and competent Chinese to govern one province, let alone a nation as big as the United States of America, and they have 400,000,000 there. I think that we had better—

Mr. BLOOM. That has nothing to do with whether we have selfish interests to conserve out there, has it?

Mr. MATTHEWS. We should not do it unless we intend to back it up by going to war. The Japanese are smart enough to receive very politely our notes and just forget them. Somebody has got to assume the responsibility eventually of reorganizing and bringing order out of the chaos of China. I do not think that the Chinese can do it alone.

Mr. SHANLEY. As I understand it, you do not object to what I must call the equivalent of sanctions, where our self-interest demands it, in the European situation, and not in the Chinese, because what we are going to do, if we would follow out your conclusion, is virtually an indirect sanction—we are giving aid—

Mr. MATTHEWS (interposing). No; because in the European case England will make a blockade of those nations, and we are bound to respect an effective blockade just as we demanded that the blockade of the South be respected during our Civil War.

Mr. SHANLEY. The status is now that if war broke out and this act was in effect we could not ship arms and munitions to either side; is not that so? Now, you want to eliminate the law so that we may ship to the allies because it is our self-interest?

Mr. MATTHEWS. No, not—to a certain extent, that is true; but I would say this, that we can do it, and do it on the basis of the old international law.

Mr. SHANLEY. Whether we are doing it or not, the motive behind it is going to come into view.

Mr. MATTHEWS. Yes; I think that that is true, and I think it would be extremely dangerous to try to confine every possible activity to a legalistic formula.

Mr. SHANLEY. Well, am I right in saying that you are going to help—you want to help the so-called democratic nations, because it is to our self-interest, and you do not care how we do it as long as we do it?

Mr. MATTHEWS. I do not place it on the basis that they are democratic nations at all.

Mr. SHANLEY. Let us call them nations.

Mr. MATTHEWS. That they are our friends, and we get along with them, and we always have had a hard time getting along with Germany. Go back and read Admiral Dewey's autobiography, when he spoke there in Manila Bay, when he spoke the language they understood he had no more trouble with them.

But, on the other hand, let me get to this final point I made which was on this matter of change. We have got to realize that change is going to go on.

It is going to go on in many respects. I would say this: That small nations, living in small, compact countries, with present populations, simply cannot exist with the nationalistic tariffs and currencies. Such regulations actually stifle those nations, the international movement, what I call the international division of labor—movement of capital to where capital is needed, and the movement of people to where people are needed, the movement of services and goods. If it is not done by peaceful means it is going to be done by force. On this present situation there (I was in New York on February 1) the first page of the Tribune had all of that news about the President's so-called Rhine frontier statement.

On the editorial page, down at the bottom, was a 20-year ago column. In that column, on that day it cited where President Wilson had called in stenographers to take down a transcript of the hearings on the disposition of German colonies.

The President wished to preserve an accurate record. He expressed himself as opposed to giving the colonies, German colonies, to the Allies—that he did not want to in effect guarantee a peace of loot. You see how the Allies got around the President by the means of mandates. I still say that there is a perfectly feasible means where those mandates still can be shifted.

I do not believe in guaranteeing the territorial integrity of the French or British Empires. I think it is up to us to impress upon them, if they want our help, that they have to make some concessions. In other words, they must recognize this all-powerful force of change, because it is not merely a matter of economics, it is a matter of pride, and a matter of furnishing an outlet for human passions.

Now, in conclusion, within the past year I have talked personally and had long talks with two men who have played dominating roles in world history. One was Leon Trotzky and the other was Gen. Charles G. Dawes.

One thing that struck me most about my conversations with these two men, as far apart as they were, was that they spoke about these mass movements that were going on.

I think that that is something that has to be recognized. These mass movements represent in a sense a struggle for existence, a blind struggle. Take first the Orient: There you have two blind mass movements in collision.

In Europe you have this tremendous—as Trotzky himself said, the tremendous dynamic force of the German people—he did not mention Hitler, but he mentioned this tremendous force that has been built up there.

I have been there twice since Hitler came into power, and I saw it.

We have also, in this country, in every little town, an avid interest in foreign affairs. People are intensely interested in foreign affairs, and I maintain that that interest has so much vitality and life that, when it is coupled with the tremendous technical and administrative ability of the American people, it is going to find expression, it is going to seek an outlet beyond the boundaries of this country in some form or other.

So in concluding, I think it is a great mistake to place faith in legalistic formulas, that now in particular is the time to do what Teddy Roosevelt said, "Speak softly, but carry the big stick."

Mr. SHANLEY. I take it that you agree that our own unconditional entry into the World War, without any demand or any provisions for the ultimate solution of the problem, would be the same situation today. If we did eliminate this Neutrality Act, and gave to those nations—I won't call them democracies—a breathing space, what guaranty would we have that these readjustments that you mention will be made?

Mr. MATTHEWS. We do not have any guaranty. If we get in, I do not believe that we should ever be a minority member on any com-



mittee. Rap the victors, and the defeated, on the knuckles and make a just peace.

Mr. SHANLEY. How are we going to get this readjustment, by a world conference?

Mr. MATTHEWS. I would say—you mean at the present time?

Mr. SHANLEY. Well, assume that this legislation has gone over the board, and those nations—those friends of ours in Europe are going to stalemate the war, and the situation is going to be no war at all.

Now, you admit that there must be some readjustment in the European situation?

Mr. MATTHEWS. Absolutely.

Mr. SHANLEY. Colonial demands, and all of that?

Mr. MATTHEWS. Yes.

Mr. SHANLEY. How can we get that? How can we be sure that some effective steps will be taken, because we are giving a lot if we give up this legislation?

Mr. MATTHEWS. I think on the whole, that Britain and France, when it comes to keeping words, I should say that they generally keep their words about as well as any nation, although they have not got a perfect record.

Mr. SHANLEY. And yet the concluding statement of probably the foremost post-war historian is that in no case have any of those so-called friendly nations ever made a single sacrifice to preserve the world peace.

Mr. MATTHEWS. That is why I think that we should play our role right now. I would say, "Here, we are doing this. If they expect to win the support of the American people—and after all, whether we go into the war or not will depend largely on the force of the American people—we can demand that France and Britain shell out a bit on certain things.

LaValle made his secret deal with Mussolini for Ethiopia, and I think when he did that that France gave up all right to Djibouti. I would certainly hate to see them give the thing up under blackmail but I think that some of these adjustments have got to be made, and in the last analysis, until these tariff barriers, and other barriers are removed, I think that the day of the small nationalistic State is coming to an end, and that other such States are going to go by the board.

Mr. SHANLEY. In the course of human nature, we all give up drink after the last one. We will always postpone it.

Mr. MATTHEWS. But this thing in Europe will not be settled unless there is an adjustment between the "haves" and the "have nots." It is a fight between the "haves" and the "have nots."

Mr. SHANLEY. There is no mechanical structure so that all of the "haves" and "have nots" can get together at the present time.

Mr. MATTHEWS. There are ways and means that might be found, but I think that particularly right at this time, on the occasion of his fiftieth birthday, Hitler is not going to precipitate any war which in the end, I think, would be his destruction, and possibly the German people too. Mussolini is a pretty smart man, and he is not going to make a move until he knows Germany is in it, and Germany is certainly not going to make a move until Hitler knows that the

Italians are actually at war. There is a certain amount of distrust between those two, but I think that this matter of adjustment on colonies, and certain other matters of that kind, will have to be made.

I think that such things as the German trade entry into Rumania and other places in that area must come if we are going to live peacefully.

Mr. IZAC. Now, you would suggest, of course, a policy of appeasement in which Britain and France gave up some of the colonies?

Mr. MATTHEWS. But not under blackmail.

Mr. IZAC. But around the conference table?

Mr. MATTHEWS. Yes.

Mr. IZAC. We are of the opinion, I believe, rather generally speaking, that the colonies would not give the outlet that is hoped for. We sort of feel that they have their eyes on great domains such as the Argentine, and Uruguay, and Paraguay, and Brazil, perhaps, and that would bring the investment, let us say, of those countries by European powers, bring them dangerously close to us, and threatening indirectly our own security.

Now, do you not think that there would have to be a further appeasement along those lines, in which these mass movements of the Germanic race, for instance, would have to be accorded some place in the South American Continent?

Mr. MATTHEWS. No; I do not think so. In the first place, as to the matter of colonies, it is a matter of psychology. It gives an outlet for energy, and it is a certain amount of satisfaction of pride. Those are powerful factors in men's lives.

Now, as to this German and Italian entry into South America, and by Japan, I think that that is greatly overrated. If you get down and see some of those nations—why, the Argentines are the proudest people on earth. They are a pretty well-civilized people—modern people. There are Germans in there, and Englishmen in there, and Italians, and Americans. I would say this, that there positively would be no particular trouble that way, if this Government which assumes the defense of the Western Hemisphere, refuses to allow any policy of direct confiscation to be established. I think that we are threatening the democracies far more by allowing a precedent to be established, which will rob democracies like France and England and Holland, of one of their principal means of support.

The only reason that 45,000,000 people can live in an area as small as England, and 8,000,000 people in Holland, is due to their international investments, the income from those international investments.

Mr. IZAC. But still in South America, you are then permitting bringing to our shores, a new ideology, as it is called today, and the democratically inclined people of America feel, of course, that that is the first step in the change that is being tried to be brought into effect in America by the socialistic, or national socialistic-inclined nations of Europe—and is not there some danger from that?

Mr. MATTHEWS. I should say that there is a grave danger of it in Mexico. I have been down in Mexico, in December, and you have almost a Communist government down there. If we are going to fight ideologies, the Communist ideology in Mexico is one that merits more attention.

Mr. IZAO. Now, to go back to Japan and China. You differ, of course, very materially with Dr. Judd on that question. You feel that even if we applied sanctions, that would not be the end of it, that war would inevitably follow?

Mr. MATTHEWS. I think that it would be a gross deceit for the American people. Why not come out and tell the truth, that sanctions are worthless unless they make war—if we declare sanctions on Japan, that that will force Japan into—for instance, oil and gasoline—into the Dutch East Indies.

When people are fighting for their lives, they are desperate.

Mr. IZAO. Then you think that it would mean war?

Mr. MATTHEWS. Absolutely, I do, and maybe in time it will come. When people ask me about the hostilities in China, I give them the answer, that Hannibal was in Italy, roamed up and down all over Italy for 15 years, and yet he was finally defeated.

Mr. BLOOM. Mr. Matthews, the committee thanks you very much, and we have one more witness.

#### STATEMENT OF HENRY H. DOUGLAS, FOR THE WASHINGTON COMMITTEE FOR AID TO CHINA, WASHINGTON, D. C.

Mr. BLOOM. What committee is that?

Mr. DOUGLAS. It is a committee here in Washington, having a membership of approximately 200 persons, and acts in cooperation with the American Bureau for Medical Aid to China, and the American Committee for Nonparticipation in Japanese Aggression.

Mr. BLOOM. Do you have other branches throughout the country, or is this the only one?

Mr. DOUGLAS. The branch here in Washington is the only one, but as I said, we are affiliated—that is, we act in cooperation with and along parallel lines with the American Committee for Nonparticipation in Japanese Aggression, with which Dr. Judd is associated, and with which ex-Secretary Stimson is active.

I am also speaking, not as an official representative, but unofficially, for the American League for Peace and Democracy, which is a national organization having, here in Washington, a membership of about 700 people.

Now, may I read my statement?

We recognize the gravity of a potential outbreak in Europe; we also realize the great importance of any step that is taken here in Washington at this time to meet the threat of war wherever it may arise. We believe that right now, this week, this month, this year, constitutes the most critical period in recent history; we believe that what happens now may be of vital significance to the progress or decline of what we regard as civilization, to a very large degree embodied in the democratic way of life.

To go even further, we believe that because of the highly significant position the United States occupies in the affairs of the world, that what takes place right here in this room during these hearings, and what takes place in the Houses of Congress during the next few weeks will have profound bearing on world events for generations to come. What is done here may very well be the beginning of an unselfish, enlightened, and fundamental approach to the problem of the cooperative existence of nations, or it may speed the decline of mutual cooperation toward a new Dark Ages.

The stand of the United States during the past 1½ years has definitely encouraged aggression and vastly contributed to the terrible state of affairs which has now come home to plague us. A sad commentary is that what may be done here now should have been done years ago, when Japan first seized Manchuria, and precipitated a series of events, fires, if you please, in what we had come to regard as a relatively fireproof world.

It is hardly necessary for us to further point out that our present neutrality law has worked entirely to the benefit of the war makers. Our policy toward Spain has resulted in a new adherent to the policies of the aggressors. We could have brought about a very different result and one that would not boomerang upon us, as this one is sure to do. The outcome of the Spanish War has settled nothing—it has only postponed a settlement.

In answer to a statement made on April 13 by Senator Connolly, it is true that, whether because of the Neutrality Act or otherwise, we did not become involved in the Ethiopian or Spanish conflicts, nor are we involved in the Sino-Japanese conflict. However, by our passive attitude we have directly contributed to the building up of a situation which may have terrible future consequences. Instead of attempting to get at the root of the trouble, we have been content to sit on the side lines and merely deplore. By our attitude we have discouraged the development of world cooperation and trade and have encouraged the growth of intense nationalism, with all the attendant restrictions on the freedom of the individual, the freedom of trade, and the hampering of enlightened progress generally. We should surely avoid taking any course which tends to either directly or indirectly encourage the growth of conditions leading to such a state of affairs.

Now, to confine the discussion exclusively to the Far Eastern situation.

I would like to say right here that the data which I am about to present in every way corroborates what Dr. Judd told us earlier in the afternoon.

I would also like to comment on Mr. Matthews' statement about the ability of the Chinese. I think that he is very much mistaken in his attitude, as is evidenced by the remarkable progress that the Chinese have made in every direction, especially since 1911.

Mr. VORIS. May I interrupt just there? They have been doing pretty well for about 5,000 years, don't you think?

Mr. DOUGLAS. Yes; they have been doing very well for 5,000 years, but from the point of view of the western nations they have been doing particularly well recently.

Now, it is clear that the application of the present Neutrality Act to this situation would work a hardship upon China, as China does not have the industrial equipment such as has been developed by Japan; nor does she have a merchant marine. China's purchases of finished munitions make up a large percentage of her total imports from us. China can continue her resistance with much less than is required by Japan to carry on the war, but to be deprived of what little she is able to secure would be a vital blow. It is also clear that a cash-and-carry plan would work to the advantage of Japan.

We are in favor of the principle of the Thomas amendment to the present act, but hesitate to endorse it unreservedly in view of practical

difficulties in the way of its application. The most effective solution seems to be an embargo on the shipment of goods to Japan. We understand that Senator Pittman is considering the introduction of a bill dealing separately with the Sino-Japanese situation, and we are also familiar with the bill introduced by Congressman Coffee designated as the Japanese Embargo Act of 1939.<sup>1</sup>

In contemplating the application of an embargo certain considerations inevitably arise. They come under four heads, which are:

(1) Are we justified in applying an embargo on the shipment of goods to Japan?

(2) Would such an embargo be effective?

(3) What would be the cost of such an embargo to the United States?

(4) Would the application of such an embargo lead us into war with Japan?

These questions will now be considered in the order stated.

(1) Are we justified in applying an embargo on the shipment of goods to Japan?

Under the circumstances this seems hardly more than a rhetorical question. The vast majority of the American people extend their fullest sympathy to the Chinese people. China is the seat of one of the oldest civilizations in the world. As a nation she is pursuing a definitely enlightened policy, and is now more united than at any time in her history.

The American people condemn Japan's unprovoked aggression against a peaceful and peace-loving nation, her wanton and barbarous bombing of Chinese civilians, open towns, hospitals, and schools. The American people condemn Japan's "new order in East Asia" as being nothing but the subjugation of the Chinese to the status of slaves, while the country stripped of its resources, for the building up of an even more formidable Japanese military machine, intent on dominating the entire Pacific area, including Indo-China, the Philippines, the East Indies—including Borneo and Sumatra, the richest sources of oil in the East—and Australia. This would necessitate tremendous expenditures on our part, to protect ourselves from something we had helped to create. Japan's future threat to our interests is a matter of grave concern.

All these considerations are in addition to Japan's flagrant violation of the Nine Power Pact.

(2) Would such an embargo be effective?

The following figures, giving the share of the United States in Japan's essentials for war purposes, speak for themselves:

Commodity class:	Percentage (1937)
Copper.....	92.0
Automobiles and parts.....	91.2
All oil.....	60.6
Pig iron.....	41.6
Other iron.....	50.7
Machinery and engines.....	48.6
Zinc.....	20.4
Total in aggregate.....	54.4

Thus it is clearly seen that iron and copper, machinery, engines and parts, and a large share of the oil, all come from the United

<sup>1</sup> See p. 630.

States. These are the materials most needed by Japan. These figures demonstrate conclusively Japan's dependence upon the United States for supplies absolutely essential to her in the prosecution of the war.

Mr. JOHNSON. Are the figures from the Commerce Department?

Mr. DOUGLAS. They are from data furnished by the Division of Foreign Trade Statistics, Bureau of Foreign and Domestic Commerce, United States Department of Commerce, and also from Monthly Returns of Foreign Trade of Japan.

Mr. JOHNSON. Have you any figures showing what proportionate part of their importations with reference to munitions of war itself—that is, arms and implements of war, we furnish?

Mr. DOUGLAS. I will bring that in later on.

To add to this, let us show, in relative percentages, where Japan gets her supplies:

*Contribution of nine principal countries to Japan's imports essential for war purposes, by countries*

Principal countries	1937 share in aggregate	1938 share in aggregate
	Percent	Percent
United States of America.....	54.4	47.9
British Empire.....	17.5	19.9
Dutch India.....	7.4	8.0
Germany.....	3.8	3.7
Belgium.....	2.0	1.3
China.....	1.7	3.0
Soviet Union.....		2.2
Norway.....	.3	.1
Switzerland.....	.0002	.3
Total.....	187.1	186.4

<sup>1</sup> Manchukuo is not shown.

Mr. JOHNSON. What do these figures include?

Mr. DOUGLAS. All material furnished to them.

Mr. IZAC. Essential war materials?

Mr. DOUGLAS. Essential war materials. That includes all metals, oil, machinery—everything that goes into war materials and is used to produce war materials.

Mr. JOHNSON. You are dealing with all commodities or all war materials?

Mr. DOUGLAS. All commodities used by Japan in the furtherance of the war, not just finished munitions.

Mr. JARMAN. Does that include cotton?

Mr. DOUGLAS. No; that does not include cotton.

The estimate to date for America's proportionate share of goods furnished to Japan in 1938 will somewhat exceed her share for 1937. That is, exceed 54.4 percent.

Here, then, is the answer to the argument that if Japan could not get supplies from the United States she would get them elsewhere. Great Britain supplies only one-third of the amount furnished by the United States, Dutch India less than one-seventh, Germany only a very small amount, and Italy nothing.

The countries—Germany and Italy—to which Japan would naturally turn in such a situation, are not able to furnish anything. They are struggling desperately to supply their own needs. What other countries are there which could, or would, supply Japan with the

needed materials? A definite stand on our part would materially strengthen the hand of the British and the Dutch in their dealings with Japan.

Equally significant, or even more so, is the fact that Japan's whole mass-production industry, the functioning of which is absolutely essential in the prosecution of the war, is geared to American machines, American techniques, American machine tools, special American steels, and American oils. Practically all the gasoline for Japan's high-speed motors comes from the United States. She cannot turn away—unless she starts to build up her heavy industries all over again, and her engineering processes from the bottom, and on a less efficient basis.

Japan's heavy imports of metal-working machinery are designed to overcome her technical weakness in this respect, so as to provide an adequate basis for her armament industries. The strategic importance of the United States as a supplier of machine equipment to Japan can hardly be overemphasized, because the United States not only makes machine tools of the highest quality but also because it is the only country at the present juncture that is in a position to deliver orders for machine tools within the short period of time these are needed by the Japanese.

As positive evidence of these statements is the fact that Japan in 1937 purchased from us \$9,461,000 worth of metal-working machinery, while for the first 11 months of 1938 the figure was \$21,492,000, at somewhat lower prices. And, further, this item alone is more than double the total value, for the same period, of all arms, ammunition, and implements of war bought from us by Japan—\$10,250,047.

Mr. JOHNSON. In other words, the value of that was equal to all of the implements of war.

Mr. DOUGLAS. In 1938, for the first 11 months, they bought over \$21,000,000 worth of metal-working machinery, while for that period in arms and ammunitions they purchased \$10,250,000 worth—and these figures are only a small part of the total war-material purchases, which I will bring in later.

Mr. JOHNSON. Importations from this country, insofar as arms and munitions of war are concerned, are a very small proportion of the importations of other commodities?

Mr. DOUGLAS. That is right.

Mr. IZAC. The implication further being—is this not correct—that she will make her own munitions with this machinery that she is buying from us?

Mr. DOUGLAS. That is what I am going to show in just a moment.

At the same time there has been a significant drop in Japan's purchases from us of motor vehicles, parts, and accessories, and an even greater drop in her purchases of iron and steel semimanufactures.

Mr. JOHNSON. Carrying out the point made by Mr. Izac, the imposing of the present neutrality law, which relates strictly to the exportation of arms, implements, and instruments of war, will not vitally affect Japan. It is the other commodities which are important?

Mr. DOUGLAS. That is correct. We would cut off \$10,000,000 worth of exports to Japan, while we would still continue to send them \$131,000,000 of other things which they would use in making their own arms.

Mr. JOHNSON. I see.

Mr. VORYS. I have a question at this point, and I may be anticipating, but do not your figures tend to show that if we have any desire to stop Japan we may be locking the barn after the horse is gone—that is, that they have the machinery and will have the resources to go on alone?

Mr. DOUGLAS. I do not believe that they as yet are in a position to do that, but the trend is definitely in that direction—that is, if we do not do something now, the horse will have been stolen.

Now, the figures for the iron and steel semimanufactures which Japan imported are: 1937, \$70,297,000; 1938, 11 months, \$30,080,000—an increase in metal-working machinery; a decrease in iron and steel semimanufactures. A degree of mechanical self-sufficiency on a war-time basis already has been attained—thanks to the help of the United States. The United States has been preparing Japan for the execution of her program of aggression—a program the people of the United States unqualifiedly condemn.

It has been stated by some that Manchukuo is now a good market for American goods. It is indeed, at the moment, a good market for materials of use to Japan in the war against China, and for machines and equipment which go toward building up Japan's mechanical self-sufficiency for further military conquests. As soon as this self-sufficiency is attained, Manchukuo as a market for goods of the United States will cease to exist.

I would like to quote here a paragraph from an article by Eliot Janeway, Japan's New Need: American Steels, Machines, and Oils, published in "Asia," June 1938:

All through the industrial economy that Japan is striving so desperately to modernize and to integrate is the story of dependence on American products, on unique American skills, on goods which America alone is producing in quantities sufficient to export. For light, durable steels in mass-production quantities; for railroad, automobile, and aircraft manufacturing equipment made from these steels and by these tools; and, finally, for the high-powered fuel needed to run her new American aircraft engines, Japan can go nowhere else. And each of these products is useless without all the others.

The above figures and conclusions rather definitely demonstrate that an embargo by the United States on the shipment of goods to Japan would be effective.

(3) What would be the cost of such an embargo to the United States?

Our total trade with Japan for the first 11 months of 1938 was \$141,993,172. The total sales for 1937 were \$157,238,100. This difference, however, is obviated by a lowering of prices in 1938, which would approximately equalize the total amounts. The total physical volume of trade did not decrease. It is significant to observe that of every \$100 the United States received from exports to Japan in 1938 the sum of \$67.30 was in payment for war materials, as compared with \$57.80 in the previous year.

Leaving entirely out of consideration the possibility of diverting some of this trade—products handled in normal peacetime commerce—to other countries, the sacrifice in trade, in terms of separate comparative figures, on the part of the United States, would be 6.3 percent of its \$3,345,000,000 of export; 0.3 percent of its 1937 national income, estimated at \$67,500,000,000; 18 percent of the \$1,166,000,000 big-navy program; or 0.77 percent of the \$27,234,000,000 expenditures incurred in the Great War.



It would hardly seem that the 0.3 percent of our national income for a limited period would be too great a sacrifice for us to make. A considerable portion of our trade, assuming Japan is not able to go on and build up a powerful empire in east Asia, and is forced to maintain somewhat her present position, would in the future inevitably be resumed. Thus it would not be a complete loss; but if we go ahead and allow Japan to build up this tremendous empire, as Dr. Judd has indicated, our future trade in the Pacific area will be practically nothing.

(4) Would the application of an embargo bring about a war with Japan?

The answer to this question is an emphatic "no." Japan's economy, and even her reserves, are now under such a severe strain that she could not possibly engage any other power in conflict, let alone a nation with the might of the United States. We are prone at present, it seems, to greatly overestimate Japan's threat to the United States.

Mr. RICHARDS. You say that an embargo, or sanctions, would not bring on war with Japan. Some people say it would, and some people say it would not; but suppose it did bring on war, would you say, "Go ahead anyway; it would be a good thing"?

Mr. DOUGLAS. I can see no possibility of it bringing on a war with Japan.

Mr. RICHARDS. Do you think we should aid China even if it brings on war with Japan?

Mr. DOUGLAS. I think that if we were to retreat in this matter our self-respect as a nation would be about as low as it could possibly be. We won our freedom by struggle and with outside help, as Dr. Judd pointed out, and we would be in an indefensible position if we refused to take this step.

Mr. RICHARDS. You think that we should fight for the downtrodden people of the earth, no matter where they are?

Mr. DOUGLAS. I am not saying that. I merely say that we should adopt policies which will help to prevent the development of such conditions, and which will definitely not encourage aggression as our policies have encouraged aggression in the past.

Mr. RICHARDS. Would you fight if necessary?

Mr. DOUGLAS. You mean in this particular instance?

Mr. RICHARDS. Yes; or any other similar instance.

Mr. DOUGLAS. We feel that if the principles for which we as a Nation stand, and the principles on which our very national life have been developed are not worth defending, we surely ought to stop talking about such principles.

Mr. RICHARDS. You feel that if the principles in which we believe are worth fighting for for ourselves, they are worth fighting for for some other country?

Mr. DOUGLAS. I feel this way about the whole situation:

I have had experience with forest fires in the West, and I regard this whole situation, as exemplified by the programs of Japan, Germany, and Italy, as a forest fire raging through the world. Some way or other, before we can work out any sort of a constructive program, based on justice to all the nations of the world, we first must stop this fire, even if a tremendous backfire is necessary to accomplish it.

Mr. RICHARDS. You usually have to fight fire to stop fire—you cannot just puff at it from a mile off.

Mr. DOUGLAS. Yes; you have to fight fire with fire.

Mr. RICHARDS. Yes, sir.

Mr. DOUGLAS. Every necessary step must be taken to meet the situation.

Mr. BLOOM. Should we go over to Poland if they had a forest fire over there?

Mr. DOUGLAS. I am not referring to one particular country; I am referring to a general fire that is raging throughout the whole world and will affect our whole civilization.

Mr. BLOOM. We cannot chase up other countries to put out their forest fires. We can try to help them and we might send chemicals over there, or some apparatus to help them put out the fire, if that is necessary, but you would not want us to go over and take care of all of the forest fires that may start.

Mr. DOUGLAS. A few days ago in the Senate hearings, the witness was asked whether we should go over and whip Mussolini for his occupation of Albania.

My answer to that would be that as an isolated incident it has no significance, but as an indication of a trend, a definite trend that is going on in the world, which we can positively see, it is very significant. While we should not go to war over that particular incident, we should adopt a policy which will discourage the aggressive policies which are raging at the present time.

Mr. BLOOM. I agree with that.

Mr. RICHARDS. Suppose that the policy you are talking about is adopted, and we see later it is leading to war; would you quit the policy, or would you take a step further and go to war, and enforce the policy that you started out on? What about that?

Mr. DOUGLAS. When we adopt the best possible policies I think that we should be prepared to back them up, the policies, of course, being subject to change due to changed conditions.

Mr. BLOOM. Proceed.

Mr. DOUGLAS. We are prone at present, it seems, to greatly overestimate Japan's threat to the United States; but, on the other hand, we greatly underestimate her future threat to the peace and security of the United States and to the world, if we continue to unreservedly assist her in the building up of a machine which will eventually dominate the entire west and south Pacific areas, as well as all of east Asia. Also, our trade with this part of the world is a very large item.

If it is to be argued that in retaliation against an embargo, or to obtain new resources, Japan would seize the Philippines, it may be answered that there is little doubt of her seizing them, anyway, and she is even surer to do so if the growth of her military and naval might is allowed to go on unchecked. Japan could do nothing in retaliation which she is not now doing, or which she is not extremely likely to do in the future.

An interesting illustration of Japan's readiness to go as far as she is allowed to go, as well as the fact that her bluff can be easily called, is the following incident which took place last year.

The people of Alaska had been repeatedly incensed by the poaching of Japanese fishing vessels, but numerous complaints to the State

Department had brought no action. Finally, the Fishermen's Union and the Alaska Chamber of Commerce decided to take the matter into their own hands. They armed a number of Alaskan fishing vessels, and informed the State Department of what they had done. The Department immediately dispatched a man to Alaska by airplane. Upon his arrival there, a number of Coast Guard vessels were instructed to take up positions near the poachers. That was sufficient. The Japanese vessels very quickly disappeared, and the trouble was ended.

In conclusion, we wish to emphasize that we are not asking the United States to declare war on Japan. We are not asking that one battleship, one man, or one dollar, be sent to the China Sea. All we ask is that our Government stop sending American products there. The bullets which came within an ace of killing the British Ambassador may easily have been made in America. The planes which extinguished forever the lives of American sailors on the *Panay* were doubtless made in America. The bombs which sank the *Panay*, the bombs which have been used on defenseless cities, taking tens of thousands of lives shriek as they plunge earthward, "Made in America." The metals which went into them, the machines which fabricated them, the oils which lubricate them, and the gasoline which propels all these engines of death comes very largely from America.

We believe that China is fighting a battle, the outcome of which is of tremendous significance for democracy and orderly processes of government, for the peace and well-being of all peoples. We therefore urge the immediate enactment of legislation which will bring to an end at once our shipment of materials to Japan which are of use to her in carrying on her war in the Far East. This is of fundamental importance.

The American people will stand solidly behind an embargo on the shipment of goods to Japan. It has been impossible for them to understand the official unwillingness of the United States to take this step.

Mr. VORYS. Mr. Douglas, you spoke of the Japanese reserves, and say that they are insufficient to go along very well. Have you any figures on that, and if so, where did you get them?

Mr. DOUGLAS. I have a study here bearing directly on that subject, prepared by the Chinese Council for Economic Research. Their figures were compiled, as stated before, from data from the Division of Foreign Trade Statistics of the United States Department of Commerce, and also from the Monthly Returns of Foreign Trade of Japan.

Mr. VORYS. What I wonder is this: If we can't even find out whether Japan is building a couple of big battleships, I wonder how we can get reliable figures on their reserves.

You understand, I think that it is most important that we should, but I am wondering where—or who got the figures, and how they got them.

Mr. DOUGLAS. That was a subject which I did not feel there was time to go into, in the time allowed for testimony, but these figures have been taken from foreign-trade returns, from Japan's balance of international payments, over a period of years, and service accounts of Japan for a period of years, all given in detail. The facts

and figures here can be checked at any time, and the conclusion, as a result of this extensive and thorough study, is that if France, Great Britain, and the United States refrained from furnishing goods to Japan, it would be of very decisive importance in the outcome of the Sino-Japanese conflict.

Mr. BLOOM. Are those figures estimated?

Mr. DOUGLAS. The whole thing is such a comprehensive analysis, that it cannot be summarized briefly.

Mr. VORYS. Could you get up a summary which would show the source of the figures, and the conclusions, that might be made available to the committee members, and possibly put into the record?

Mr. DOUGLAS. Yes.

Mr. VORYS. Another question. Do you have there what the volume or percentage of America's foreign trade is in the Orient, in the Pacific Basin, or some such figure as that?

Mr. DOUGLAS. I do not have that figure here, but Dr. Judd quoted it during his testimony. His statement was that our entire trade with the whole Pacific Basin was more than our trade with all of South America.

Mr. VORYS. Have you the figures for our trade with China prior to—or, for the last few years, or any comparative figures?

Mr. DOUGLAS. Figures for the trade with China under the present circumstances are extremely difficult to obtain. You understand that since the occupation of parts of China, material going into China, destined for the Chinese Government, may have been diverted to the Japanese, and the present occupation of all of the ports has made it extremely difficult to obtain any sort of figure. However, for the 12 months of 1938, through the Port of Hong Kong, the only port with reference to which figures may be considered reliable, our total shipments to China were \$21,288,000.

Mr. VORYS. Have you any comparative figure for 1934 or 1935—some time before the dislocation of our trade?

Mr. DOUGLAS. I do not have them at hand, but it is very much larger.

To give you some idea also of the relationship of the value of the actual arms that we send to Japan—that is, the relationship of this item to all of the goods we ship to Japan, are these figures:

For the 12 months of 1938, we shipped to Japan \$239,575,000 worth of goods, and in 1937 we shipped \$288,588,000 worth of goods.

Compare these figures with the \$10,000,000 that we actually shipped them in munitions—finished munitions. You can see that the application of our present Neutrality Act would merely cut off the \$10,000,000 and allow the other \$229,000,000 to continue.

Mr. BLOOM. Any further questions?

Mr. VORYS. When you talk about \$10,000,000, do you include aircraft?

Mr. DOUGLAS. That figure includes airplanes.

Mr. BLOOM. Thank you very much, Mr. Douglas, and we appreciate your coming here.

The committee stands adjourned until tomorrow morning at 10 o'clock. The hearing tomorrow will be from 10 to 12.

(Whereupon, at 4:40 o'clock the committee adjourned until 10 a. m., Friday, April 21, 1939.)

## AMERICAN NEUTRALITY POLICY

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FRIDAY, APRIL 21, 1939

COMMITTEE ON FOREIGN AFFAIRS,  
HOUSE OF REPRESENTATIVES,  
*Washington, D. C.*

The committee met at 10 a. m., Hon Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order, for the further consideration of bills to amend the Neutrality Act. Mr. Lawrence Dennis is the first witness. Mr. Dennis, will you kindly tell the reporter who you are and who you represent?

### STATEMENT OF LAWRENCE DENNIS, NEW YORK, N. Y.

Mr. DENNIS. I am Lawrence Dennis. I am an economist with a Wall Street financial firm, and I was 7 years in the United States Diplomatic Service, and I have been in Wall Street the last 10 years.

Mr. BLOOM. Who are you connected with?

Mr. DENNIS. With a Wall Street brokerage firm.

Mr. BLOOM. What is the firm?

Mr. DENNIS. E. A. Pierce & Co. I just want to say that whatever I say here represents my own views and do not involve my firm. I speak in this connection purely privately. That is why I did not mention the name in the first place. I do not want to associate them in any way with my views. I do a lot of speaking and lecturing and writing of magazine articles and that sort of thing, quite independently of my connection with them as an economist.

I was asked by a committee of ladies in New York, who are opposed to communism and interested in keeping this country out of war, if I would mind coming here and appearing before this committee if they obtained an invitation for me to do so, and I said that I would be very pleased to appear and present here the views that I have already expressed in writing and in articles in the American Mercury and elsewhere.

Mr. BLOOM. You may proceed.

Mr. DENNIS. Well, it seems to me that at the present time the United States is being propelled toward war by forces which are very hard to define clearly, but as nearly as I can see those forces are foreign interests and what I would call an ideology that we have developed since the World War. I would like to outline briefly those interests and that ideology and to advance the general argument that it is not in the American interest for us to go to war against the particular dictatorships or any other powers at the present time.

Mr. BLOOM. You do not mind interruptions, do you?

Mr. DENNIS. Not at all.

Mr. BLOOM. You are going to connect this up with neutrality. It is a fact that no one wants to go to war, but what the committee would like to hear from you is your views with reference to neutrality and how this would lead up to it.

Mr. DENNIS. That is what I hope to do, sir. I feel that the majority of Americans and the Members of both Houses here want to keep America out of war. The great question is how to do it.

Now, it is my belief that we cannot keep out of war if we adhere to the general theory and doctrine of collective security and the guaranty of the status quo, the world over. It seems to me that that is the central issue that confronts us today. If we are going to protect all territorial possessions and prevent all changes of sovereignty, any and everywhere in the world, by force, then it seems to me that we are bound to go to war. That, as I see it, is the big issue, it is this issue of collective security, and of course the idea that our interests are common with the interests of every other nation in the world which is defending itself against pressure or aggression by a foreign power.

Now, the interests which I think are propelling us in this instance are the foreign interests, the interest in defending the British Empire, and the French Empire, and the interest of world communism which wants a war between the democracies and fascist powers.

It is my belief that Russia will not go into that war, but that Russia is trying to goad the other powers into such a war. I think that there is continuing evidence of the indisposition of Russia to go into the war at the present time, but also evidence of a strong desire or purpose, if possible, to put America and England and France together in war against Germany, Italy, and Japan.

As I see it, that is definitely in the interest of Russia. If they could get these three, or six, great world powers—after all there are just seven great powers, the United States, Great Britain, France, Italy, Germany, Japan, and Russia—if three of these great powers were pitted against the other three, and the Russians could stay on the sidelines until the others had fought it out like the Kilkenny cats, what could be better for the world-wide spread of communism? It seems to me that that is the policy logically indicated for the spread of world revolution, and I think that the Russians have been very capably pursuing that policy, so far not with entire success, that is due to the intelligence of Mr. Chamberlin and Lord Halifax in the British Government, who are very anxious to avert war if possible, realizing that there is nothing in it for Great Britain.

So summarizing, I would say that the interests that want to put us into war are the interests of defending the status quo, and the interests of world communism. Those interests have nothing in common, it is only, of course, accidental that in this particular connection they unite to bring American in.

Reading the headlines today, one would gather that America has already signed up for the war, judging by Mr. Roosevelt's utterances and the utterances of other statesmen of ours. The question we are negotiating about now, is whether Russia comes in. In other words, we have got to cement the alliance, the grand alliance, between Russia, the United States, England, and France, for this great war for democracy and righteousness.

Those are the interests.

Now, I do not need to say, right here, that I do not think that American interests have anything in common with those interests, although the views generally expressed in our papers are that American interests require the defense to the limit of the British and French Empire, and the defense of any weaker nation that may be threatened by aggression. They do not say that our interests are identical with those of Communist Russia but it appears that the alliance with Russia is an indispensable element of this holy alliance. From the news every day efforts are being made to cement that alliance, though there is indication of the reluctance of Mr. Stalin to commit himself to military participation, and I think Mr. Stalin is very sensible. I should be happy to feel that the same good sense governed our foreign policy—in other words, let the other people fight but why should we go into the fight?

That in Mr. Stalin's case, I think is sound Russian interest, and sound policy for communism: "Let the others fight, but let us stay out of it."

Now, as for the ideas, they are more fundamental. The ideas behind this drive to get us into war are in brief the idea of collective security, the idea that the world is finished with an era of expansion by war, territorial conquest, and the world is now to be ruled by international law, that there are to be no more changes of sovereignty by war or conquest.

That idea is not a traditional American idea. That was not the idea of George Washington's Farewell Address; it was not the idea guiding American policy in the nineteenth century, when the British invaded South Africa and fought the Boers in 1899. No one raised any cry about defending the Boers and defending their sovereignty. There was none of the talk that we have heard in the last few years about Abyssinia and Manchuria and Albania, and about Czechoslovakia. When the British were taking territory in Africa all during the nineteenth century there was no such talk.

We came by that talk, and that idea of collective security, under Mr. Wilson, in the World War. We fought this war, that our friends want to have us fight again. We fought it in 1917, to make the world safe for democracy, to establish the rule of law. The war produced communism and fascism and nazi-ism, and it was an unqualified failure from every point of view but now we have to fight it again.

The ideology of the thing is the important fact, and here I would make an observation to all of the statesmen in Washington who are opposed to our going to war, that I think it is quite impossible for them to succeed in their opposition to our involvement in war unless they are able to combat this idea, because the idea has an imperative. If you accept this doctrine of Mr. Stimson, of President Roosevelt, of a long line of distinguished statesmen, since Mr. Wilson, if you accept that doctrine, there is no escape from war, because the expansionist powers are going on with their policies of expansion, and nothing will stop them.

War; Heaven knows what it would do, but the threat of war will not stop them, and that is the fundamental factor in the situation.

Now, I would like to examine this idea a little, in detail, with a view to showing, first, that it is not consistent with American traditional policy. It is not the policy of Washington, it is not the policy

of American democracy in the nineteenth century; and secondly, that the idea is essentially contrary to experience and history. That is, the ideal of collective security has never been realized in the history of the world, and there is absolutely no reason to suppose today that it can be realized, so I am opposed to the United States fighting another war for an ideal which I am convinced cannot be realized.

I am not against war. On the contrary, I fought in the last one, and I am ready to fight in the next war, although I am opposed to it; I shall have to keep my mouth shut once the declaration is made, but I am saying now, while I have the opportunity, that I am opposed to that war because there is nothing for America to be gained from such a war.

Why? Because the ideal is unrealizable. It is contrary to the teaching of history.

Now, let us look at the facts for a moment.

We have the world divided today into the "have" and "have-not" powers. The "have-not" powers are Germany, Italy, and Japan. They have approximately a quarter of a billion people in all. That is just about the number of people in the British, French, and the American empires; that is, white people.

You have roughly an equality of numbers; Germans and Japanese are as fine fighting people as there are in the world.

Now, this idea of collective security is nothing more or less than a concrete proposal to unite the fighting power of the two and a quarter billion, or two hundred and five billion of Anglo Saxon and Frenchmen against two and a quarter billion of Germans, Japanese, and Italians, on the fundamental issue that these aggressive powers shall not change the status quo in Asia, in China, or in the Balkans, and in eastern Europe.

Now, I say concretely, definitely here, and now, that I do not believe that the status quo can be frozen, can be preserved by any sort of alliance or agreement. We can have a world war; yes. We had one in 1917, Heaven knows what the end of the world war will be. It will probably mean the end of Hitler and Stalin and Mussolini; it may very likely mean the rise of scores of small dictatorships all over Europe, and the spread of communism.

I predict, and I think on the basis of history, a reasonable man is bound to predict, that the end of such a war will not be the opening of a millenium in which the legalistic system of Mr. Stimson, and Mr. Hughes and Mr. Wilson will be put into effect.

Mr. BLOOM. Will you connect this up with neutrality? We are considering this neutrality legislation, and how would you connect this up?

Mr. DENNIS. The connection with neutrality is just this: First, we have got to make it a basis of American policy, declared American policy, that it is none of our business what changes take place in Europe or in China. We shall have to accept the processes of expansion, of aggression, and war, localized in other areas as long as they do not infringe upon our safety. We shall have to reject the doctrine that our safety is identical with the maintenance of the status quo the world over.

That is the first element for neutrality. I do not believe that any legislation can keep us out of war. If we are committed to this idea



of collective security, I do not believe that any prohibition of trade, or any type of control of exports and imports, can possibly prevent it; if our President and our Congress and our people are committed to the idea that they must ally themselves with the British or the French and the Communists in Russia for the maintenance of the status quo.

Now, as to concrete legislative proposals, I think that in general they can do very little. Our foreign policy must be guided by an idea of national interest. We must make up our minds clearly as to what is American interest in the face of this world situation. We must repudiate the idea and doctrine that the United States has to make common cause with any European alliance to prevent all expansionist policies by Germany on the Continent or by Japan in Asia.

That is my concrete answer to that question, sir.

Mr. BURGIN. Do you advocate any neutrality act; would you repeal that?

Mr. DENNIS. I would maintain the present Neutrality Act. It is on the books, I would maintain it. I think it might even be strengthened, but I do not pin any faith in it, because the Executive can drive a horse and carriage through any Neutrality Act, given certain conditions; there are so many powers the Executive has.

I was an American charge d' affairs in Nicaragua in 1926. I have been in charge of American legations, in Honduras and Rumania, when I was in the Diplomatic Service, and I had occasion to see in those small republics in Central America, how the Executive can commit the United States to war without any congressional authorization, but under guise of protecting American lives and property, and so on.

In Nicaragua, Mr. Stimson went down there, and committed the United States to an intervention which cost 3,000 Nicaraguan lives and 100 American marines, and there was no constitutional authorization for it, but it was just in the process of defending American property and American lives.

Now, if we keep our fleet in China, and attempt to interfere with Japanese naval and military operations there, under guise of protecting American lives and property, why something can very easily happen which will make war almost inevitable. That is why, while I am in favor of all neutrality legislation. In principle, some would be a little better than others. I do not feel such legislation would in itself be effective.

Mr. BLOOM. Have you read the Pittman bill?

Mr. DENNIS. Very rapidly, sir.

Mr. BLOOM. Have you studied the present act?

Mr. DENNIS. Yes.

Mr. BLOOM. What do you think of the cash-and-carry provisions?

Mr. DENNIS. I am in favor of the cash-and-carry plan. I think if the cash-and-carry plan is correlated with the warning to Americans that American ships and lives will not be protected if they venture into war zones, it will be a very good instrument to implement our neutrality policy.

Mr. VORIS. Which form of cash-and-carry do you favor, the proposed absolute stopping of the use of American ships, or the thing

that you mentioned last, a legal notice to American ships that they travel at their own risk?

Mr. DENNIS. I think the legal stoppage is necessary. The notice is not enough, because if American lives are lost and American ships are sunk in the theater of operations, the impact on American national pride and sentiment will be too dangerous for neutrality, too great, I think, to maintain neutrality.

Mr. SHANLEY. Do I understand that you have been against all imperialism, whether it was under Teddy Roosevelt or Hay or Lodge? In your disapproval of all of the protectorates in Central and South America, do you approve virtually the abandonment of the Roosevelt corollary of the Monroe Doctrine?

Mr. DENNIS. I believe that the Monroe Doctrine should be upheld, and I believe in a much stronger policy in Central and South America than we have at times pursued, especially in Mexico.

I think that in 1916, when Villa shot up 20 Americans in Columbus, N. Mex., that we should have got Villa, and we should have made American lives and property respected in Mexico. I think there that we can make our interests respected, and I do not think that we can protect our interests in China; it is a practical question.

I believe we should pursue a strongly nationalistic policy. I do not believe in imperialism; I do not think that we should think of taking territories to the south of us, though if we needed territory I would be for it; but we do not need it. We certainly do not need any more wheat or cotton or raw materials, and I think that there are grave social and racial problems connected with imperialism. I am anti-imperialist for America in this age.

I am not a pacifist; I have no doctrinal or moral aversion to imperialism; I am purely a nationalist. I say that there is no American interest to be served today by our conquest of any country to the south, but that we should keep all of Europe out of South America. I do not think that there is any danger of European penetration.

Mr. VOYTS. Strictly on the basis of serving our national interest, if we could declare a legislative embargo against Japan, which would end the Japanese war in 3 months or 6 months, would that serve our national interest?

Mr. DENNIS. Well, sir, I am inclined to say on the Japanese question that we should not try to interfere with Japanese expansion in the East. I differ there very strongly with many groups who think that we should try to stop Japan. We maintain a closed door to Japan in California and in this country, and I think that we should maintain a closed door to any Japanese penetration by force anywhere in this hemisphere; but the corollary of that policy, I think, is what would be called a renunciation of the open-door doctrine, which I think was never effective, and I certainly do not think that we should try to make it effective. If we should try to embargo Japan, here is what I am afraid might happen:

I am afraid that it would then give the Japanese a justification to take the Dutch and British East Indies, and they may take them anyway; but if we were to cut off their raw materials, they would say to their people, "There is nothing for us to do but to go down the line and take the Dutch East Indies so as to get oil." There is oil there, and

if they got the Dutch East Indies they would get rubber and control our rubber supply.

Now, it may be, if Mr. Chamberlain's policy of appeasement is allowed to continue without war, that the British will be able to work out compromises with the Japanese, whereby Japanese control of China will be recognized, and whereby British interests will be respected, though they would not be as extensive as they have been. In other words, the thing may work itself out by compromise. Our doctrine of the "open door" is gone by the board, and I would be afraid to apply economic sanctions to Japan for fear that they would push Japan into some rash move which may be averted because I think all of these questions have to be decided by one criterion, Are we prepared to fight it out with Japan?

Now, naval people tell me that if we were to try to crush Japan in a naval war we might have a 5-year enterprise on our hands which would cost tens of billions of dollars, and require the building of a much larger fleet than we have.

Mr. VORYS. On the other hand, if Japan tried to crush us, they would have a 5- or 50-year affair on their hands?

Mr. DENNIS. And they never could do it.

Mr. VORYS. We are just never going to fight Japan and they are not going to fight us; is not that right, now?

Mr. DENNIS. That is right.

Mr. VORYS. On the other hand, if Japan does have the Dutch East Indies and the Philippines, and still feels that her policy should be one of expansion, that is another story, that is looking very far ahead, but our interests would not be as well served as the sort of thing that we had when we had what we called the "open door"; is not that true?

Mr. DENNIS. Yes; I think that that is true. Certainly the world was a more comfortable place for us with the British Empire supreme throughout the world, and with no challenging by nations like Japan and Germany, but while I am prepared to grant that, I am not prepared to grant that we should undertake preventative measures against the growth of these rising young expansive nationalisms, simply because I think the attempt would bring down the whole of western civilization, and heaven knows what the result would be.

Now, of course, the collective security people believe that you could stop the attempt by just pounding your fist on the table and England, France, and America and Russia all saying, "Well, now, you stop, or we will prevent you from going further."

Now, I do not believe that the threat of such action will stop them. That is the point; and I would be against our taking any action which would commit us to a long war, the issue of which no person can possibly foresee.

Mr. VORYS. We would not be committed to any war at all by an economic embargo against Japan, simply because, for the present, we cannot fight them and they cannot fight us, because it costs too much to get together, is not that true?

Mr. DENNIS. I would not subscribe 100 percent to that. I think that things could happen which would make it possible for a President disposed to go to war, to take us into war even against Japan, though the costs of the war would be incalculable and the possibilities unforeseeable.

It is still possible, I think, for us to get into a war with Japan if we provoke Japan enough, so that Japan will take action against us in ways open to her out in the Far East. I think that there is a danger there.

In other words, I would say, sell to the whole world and not let us constitute ourselves moral judges of other nations' acts.

Let us only judge their acts insofar as they directly impinge on our safety, and I would say it does not impinge upon our safety for Japan to expand in China, and other people take the other view, but I say that we have got to renounce the view that Japan cannot expand in China. And, if we embargo Japan there are practical difficulties, too, you know. If we put an embargo on Japan, the British would simply sell the stuff instead of us, probably, and if we embargoed cotton the British would sell more cotton from India and equipment to them. And the Australians and Canadians would sell more wheat, you see you do not get unity on the application of these embargoes.

If we were to undertake such measures we would provoke Japan, we would gain her hostility. Our trade with Japan is very valuable; why should we sacrifice those interests and provoke Japan? What American interests are served by it? I do not think that we can prevent their expansion in the long run.

In other words, they are destined to try their hand at expansion; whether they succeed or not, I do not know.

Mr. BLOOM. Any further questions?

We thank you very much, Mr. Dennis, and the committee is very grateful for your coming here and giving us the benefit of your knowledge on this subject, and we appreciate very much your being here.

Dr. Esther Caukin Brunauer, associate in international education of the American Association of University Women, is next.

#### **STATEMENT OF DR. ESTHER CAUKIN BRUNAUER, ASSOCIATE IN INTERNATIONAL EDUCATION OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, WASHINGTON, D. C.**

Dr. BRUNAUER. Neutrality legislation has come to be the symbol of American foreign policy. Actually, it is only a small part of the whole foreign policy of the United States. Moreover, it is domestic law and governs only the actions of persons within the legal jurisdiction of the United States. Nevertheless, its implications for the general course of international affairs are farreaching. No nation can formulate its own foreign policy without taking into account what one of the largest and most powerful nations in the world is likely to do in a given situation.

Only in the technical sense can we call either the present law or the proposals for changing it "neutrality." What all of us are discussing is the course which the United States should take during periods of armed conflict when it is not, itself, a belligerent. There are different types of nonbelligerency, or neutrality. For example, history records the attempt of Russia and the Scandinavian countries to protect themselves against both sides in the wars between Great Britain and France at the end of the eighteenth century, by organizing the armed neutrality of the north.

The state of benevolent neutrality is well recognized in diplomacy. When the United States entered the World War in 1917 President Wilson called on the other American republics to follow. I am going to quote a few passages from the note of Argentina at that time because it has some bearing on our discussion of neutrality legislation here. They took up an attitude of benevolent neutrality and "recognized the justice" of the declaration of war by the United States—

Inasmuch as it is based upon the violation of principles of neutrality made sacred by the rules of international law which have ever been considered as the definitive conquests of civilization.

The Argentine Government justified its own—

departure from strict neutrality not only by her friendship to the United States but because she was in a sense party to a written promise of the German Government, notice of the breach of which had been served upon her by Germany itself.

The World War created considerable doubt as to the validity of the supposed rights and duties of neutrals under international law. After the war an attempt was made in the League of Nations to abolish entirely the concept of neutrality and to make all nations recognize that any breach of the peace is an affair of all nations. With the failure of the League in the political sphere this concept fell.

There are remnants of prewar neutrality and there are opportunities to create new concepts of neutral rights and duties. The United States began with the act of August 31, 1935, to define a new neutrality duty, namely, the duty to avoid entanglement with belligerents, and perhaps help to starve the war, by cutting off trade with both sides. Actually the neutrality act goes only a short way toward accomplishing this purpose.

I mention all of these facts about neutrality here only in passing. It is not my purpose to elaborate on the significance of the problem in relation to international law. Eminent experts on international law have appeared before both this committee and the Foreign Relations Committee of the Senate, and have discussed in detail the legal aspects of the Neutrality Act and of the proposals for its amendment or repeal. I propose rather to consider the political meaning of the neutrality legislation of the United States—to discuss its significance—as a means of preventing war right now and its importance as a first step toward laying the foundations of a structure of permanent international peace.

Of all the proposals which are before this Congress for revising, repealing, or continuing unchanged the Neutrality Act of April 29, 1937, the amendments submitted by Senator Thomas in the Senate and Mr. Geyer in the House of Representatives come the nearest to establishing principles which will contribute positively to international peace.

Briefly, the three main features of the Thomas-Geyer resolution are:

1. The President would be permitted to extend the list of restricted articles to include supplementary war materials;

2. It would be possible to place an embargo on trade with a State found to be making war in violation of a treaty with the United States; and

3. The legislative and executive branches of the Government would share the responsibility for any decision to exempt one belligerent

or group of belligerents from the embargo which would be declared the moment the President had found that a state of war existed.

I do not intend to discuss points 1 and 3 in detail but merely to indicate their general importance.

The permission to extend the list of embargoed articles to cover essential war materials is necessary, to make any sort of embargo really effective. The arrangement for joint action by the President and Congress meets the objections which are raised against putting too much power into the hands of the President. While it is true that the Congress would have the right at any time to change the present neutrality law and impose any embargoes that it wished, it would be safer for Congress to adopt a general principle, not directed at any nation, now, while there is peace and our heads are relatively cool, than to act in excitement when there is war and when much more drastic action is likely to be demanded. Moreover, it reintroduces into American foreign policy an element of flexibility that was taken out by the Neutrality Act, for under this provision, Congress and the President could adjust their action to suit the gravity of the situation. The most important feature of the Thomas-Geyer resolution, however, is that it would establish a principle of nonmilitary action to restrain aggression, and thereby make a tremendously important contribution to the prevention of international war right now and to the establishment of a permanent peace for the ages. There is a chance that the adoption of this principle would shorten the present conflict in the Far East and it might prevent the outbreak of war in Europe. In the longer view, it would certainly be an important step in promoting the respect for international law and morality which must be the foundation of any lasting peace.

Permit me at this point to discuss in some detail what would be in my opinion the immediate contributions of the proposed legislation to world peace. Obviously, if Japan were unable to purchase essential war materials in the United States the prosecution of the war in China would be so seriously handicapped that it might be terminated very quickly. While it is true that there are other sources of supply for such materials as oil and scrap iron, it would nevertheless involve much time, expense, and energy for Japan to find and develop those other sources. At present the Japanese Army uses up considerable strength simply holding on to what has been conquered, and the sudden stoppage of supplies from the United States might make just enough difference to induce the Government of Japan to put an end to the "China incident," the euphemistic term used by the Japanese Government to designate the war on China.

In Europe there is a good chance of actually preventing the outbreak of war if it is made clear ahead of time that the almost unlimited economic resources of the United States would be withheld from an aggressor nation and put at the disposal of the nation or nations that had been attacked. In the World War the nations of Europe learned something about the power of the United States. If the high officers of the German Army and Navy had realized that the entrance of the United States would be the decisive factor in the defeat of their own nation, they would certainly never have em-

barked on the unrestricted submarine warfare which finally brought this country in against them. The political branch of the German Government had some inkling of it and tried to keep the submarine program within bounds.

As a matter of fact, after the United States threatened, in the *Sussex* note of April 18, 1916, to break off diplomatic relations unless the German Government restricted its submarine warfare, the Chancellor forced the Navy for 9 months to abstain from the torpedoing of merchant and passenger ships that had caused such an outcry in this country. The general staff and the admiralty staff discounted the possible effectiveness of the United States as an ally of the Western Powers, and through an internal political maneuver finally forced the Chancellor to accept the unrestricted submarine warfare, over the protest of the Ambassador in Washington, Count von Bernstorff.

Not only these officials but the whole of Germany, lived to regret the shortsightedness that permitted the adoption of a policy which finally provoked the United States into war. It is safe to assume, therefore, that there are few Germans in responsible posts today who do not appreciate the necessity of keeping the United States out of the picture if Hitler is to succeed in his plan of conquering central and eastern Europe. The present neutrality law must give Hitler considerable comfort, not merely because it actually cuts down on the help that victims of his policy would receive from this country, but because the whole tendency of the law is to emphasize an attitude of indifference on the part of the United States.

In discussing the probable impression it would make on Hitler if the principles of the Thomas-Geyer resolution were incorporated in our neutrality legislation, we must remember that in spite of the glorification of war and force that is one of the cornerstones of the Nazi system, Hitler is a much shrewder politician than Kaiser Wilhelm was.

Now, I would like to tell you as a background for what I say about Hitler, that I spent most of the year 1933 in Germany making a close, first-hand study of the National Socialist revolution; that I have followed very closely everything that has happened since then, so that my judgment is not based simply on what I have heard other people say or what I have read in the American newspapers, but comes out of a very intensive study of my own.

Hitler does not have much of the chivalric disregard of consequences that was part of the tradition of the Prussian military caste even as late as 1917. His background is lower middle-class, and his outlook on life is fundamentally that of the small tradesman, in spite of his Messianic complex. His whole history since the Munich "beer hall putsch" of 1923 has shown considerable shrewdness and practicality. At that time he learned that he could do nothing against overwhelming force, and so he set to work to win over the force that was against him. He succeeded in winning over a considerable part of it, and he refused to enter the Government until he could control so much of the machinery of the German State—particularly the police force—that there would be practically no danger of resistance to his measures.

In November of 1932 he was defeated at the polls and was losing millions of his followers. At this juncture some of his lieutenants clamored for open revolution. He refused because he realized that the opposing forces were too strong. Less than 3 months later he conquered Germany without a battle, and without a battle he has achieved every one of his territorial conquests.

Hitler's writings and speeches on foreign affairs support the evidence of his actions in the field of foreign affairs. All of this evidence points to the conclusion that he is not likely to proceed with a war of conquest if he knows that the forces against him are so strong that he cannot win a quick and decisive victory. In *Mein Kampf* he severely criticized the Kaiser's foreign policy for the alienation of England; he considered it a fatal mistake that Germany entered the war without insuring the neutrality of England. At present, in spite of the incessant repetition of the invincibility of Germany, he is just as well aware as anybody in this room that Germany cannot fight all, or even most of the nations of the world at once. He knows that the victory of Germany in an international war will depend entirely on who will be his allies, and who will be his enemies. He knows, also, that if Germany is defeated again the wrath of the German people will be turned first of all against the Government that got them into the war, and that it would mean his end and the collapse of the Nazi system, just as the Second Reich collapsed after the World War.

There is considerable evidence of a widespread unrest in Germany that developed during the Sudeten crisis, when the people suddenly began to realize that they might have to go to war to win territories beyond their 1914 boundaries. It would be foolish to believe that this unrest would provoke an immediate outbreak against the Government in case of war, but unless Hitler could give his people a series of brilliant victories, and produce them quickly, it would be very difficult to keep up their morale. They are not as fresh and vigorous as they were in 1914, either physically or psychologically and they would probably reach the breaking point much sooner than they did before.

Hitler knows this far better than we do, and since it happens that he is really fanatically sincere about his Nazi religion, he is not likely to risk the opportunity to maintain the position of the Nazis within Germany for foreign adventure that would probably end in the overthrow of the Nazis.

Let us recall briefly the foreign policy of Hitler since he became Chancellor. The nazification of Danzig and clamor for regaining the Polish Corridor began almost immediately, but to this day he has not attempted to annex it outright because he does not want to have war with Poland as yet. Immediately after the Saar plebiscite he commenced agitation in Memel, but did not actually annex that territory until the European situation was in such a state that he could do it without risk. The nazification of Austria went with greater difficulty, but he did not risk a military occupation until the possible opposition from the great powers was immobilized. He must have understood well in advance that Great Britain, in particular, would not interfere and we know that Eden resigned because of differences of opinion with Chamberlain, not merely over his policy toward Italy but also on the question of appeasing Hitler.



It is also significant that Hitler did not demand the Sudetenland until after the London Times had suggested that such a solution would be reasonable. The final conquest of Czechoslovakia came only after it had been demonstrated through many months that no nation was likely to make an effective protest.

I have gone into some detail about Hitler's policies, because I believe that Germany is likely to be a greater threat to European peace than Mussolini at present. There is good evidence that Mussolini is as anxious as Hitler to avoid fighting against overwhelming odds—perhaps even more anxious because Italy is weaker than Germany. He has constantly been willing to take advantage of weakness and to make use of conciliatory attitudes to promote his own purposes, but he has not yet attempted anything that would bring the combined force of Great Britain and France against him.

Now, where does the neutrality legislation of the United States come into this picture? I have tried to point out that Hitler and Mussolini weigh the forces on both sides very carefully. Now the neutrality law in its present form represents an attitude of complete indifference that cannot help giving Hitler and Mussolini the impression that they need fear nothing, not even moral opposition from the United States, if they extend their conquests.

As a matter of fact, it is likely that if general war should break out in Europe the American people would not remain indifferent very long, but would begin to clamor for action, and by that time, "action" would mean war. Is it not infinitely better to try to face this situation now, when the European nations are at peace? Do we not owe it to ourselves, as well as to others, to give due notice that if a nation goes to war in violation of a treaty with the United States, the moral support and the gigantic economic support of this country will be thrown on the side of the victim of such aggression?

In the balancing of forces just this much difference may mean the difference between peace and another world war. Call it benevolent neutrality, if you like. Whatever you call it, it might, even at this late date, put a stop to the German and Italian careers of conquest that are certain to plunge Europe into a catastrophic war if they go on. It involves very little actual risk for the United States, for no government would gratuitously add the United States to its enemies just because of irritation at a trade embargo. Mussolini at the time of the Ethiopian War declared, "Sanctions mean war." But did Mussolini declare war on England during the time when sanctions were being enforced against Italy?

Germany knows very well the difference between fighting a shortage of raw materials and fighting American soldiers. They know by this time that one and a half million American soldiers were sufficient to turn the tide of the World War. But the full military strength of the United States is not a million and a half men, but 10 times that number, if they should be needed, and Hitler knows that, too. Consequently, he would not be in a hurry to provoke the United States into using its armed strength against him because he resented a refusal of the United States to sell the munitions and raw materials of war to Germany.

There are other safeguards as well. In exercising the power to exempt from embargo the countries attacked by a nation making war in violation of a treaty with the United States, Congress could

regulate whatever trade might be permitted so as to minimize or eliminate the risk of inflammatory incidents.

I have already spoken of the likelihood that if a European war breaks out and lasts any time at all the American people will begin to clamor for action. They are very much more concerned now about the European situation than they were when war broke out in 1914. If it is possible for this Government, by an orderly procedure authorized in advance, to take some sort of nonmilitary action, large numbers of people will be satisfied that we are "doing something," and I believe that the pressure for military participation will be considerably lightened.

The adoption of a policy of benevolent neutrality toward victims of aggression would also encourage Great Britain and France, and, in fact, all of the countries of Europe, that are content to live without attacking their neighbors. It would stiffen their determination to resist the inroads of fascism and national socialism long before those incursions take on military form. It would overcome the defeatist attitude that one finds among some of the smaller countries, which feel that the steamroller is irresistible and that only the dictatorships are vigorous and determined.

Within Europe the policy of Great Britain is decisive today, and the policy of Great Britain is determined to some extent by calculations of what the position of the United States is likely to be. Hitler is convinced that Great Britain and Germany are natural allies and until the final conquest of Czechoslovakia he seemed to be making headway in gaining British support for his continental policies.

We know, from statements made by Chamberlain himself, that one reason for inaugurating the policy of appeasement was that no assistance of any kind could be expected from the United States. We know how aggressive Hitler and Mussolini became during the period of appeasement, and it is not difficult to imagine the consequences, if Great Britain should again seek to conciliate them by the same method.

The incorporation of the principles of the Thomas-Geyer Resolution in the neutrality legislation of the United States would have an excellent moral effect upon England and help to prevent the danger of a renewal of the appeasement policy. In my opinion, the best guaranty of peace in Europe today is the present "stop the dictators" policy of Great Britain and France, which may also lead to the solution of the fundamental international problems along the lines laid down in President Roosevelt's message, namely: (1) Promise of nonaggression guaranteed by disarmament, and (2) economic adjustments.

On the other hand, no progress can be made in the direction of peace as long as force, and the threat of force, continue to pay dividends in the form of territorial aggrandizement.

You will say that this is "power politics," this suggestion that the United States adopt a line of foreign policy that may determine the future of international peace. Yes, it is power politics, utilized for a good cause. I know, however, that people are often more afraid of the names of things than of the things themselves, and that they are less disturbed by realities than by words. In this case, we must look beyond the words "power politics" to the reality—to the

fact that the United States plays a role in international affairs by its mere existence. It plays "power politics" if you like this phrase, whether it expresses indifference toward aggression as in the present Neutrality Act, or whether the weight of its prestige is thrown on the side of the victims of aggression, as is intended in the Thomas-Geyer resolution. Because the United States is a disinterested nation it can make its power count on the side of peace and justice.

It is fantastic that we have let ourselves be so carried away with phrases about the dangers of entanglement that we are unable to see that this country is and always has been entangled in European politics. The most profound tragedy of it is that we have seldom been willing to exert ourselves sufficiently to utilize this entanglement for the good of our own or any other nation. From the establishment of the first colonies on this continent we have been concerned with the course of European politics. We did not hesitate to use the European power politics of the eighteenth century when it was a matter of winning our independence from Great Britain. Since the establishment of independence we have been involved in European wars three times, the short naval war with France in 1798, the War of 1812 with England, and the World War in 1917.

Even the enunciation of the Monroe Doctrine grew out of a shifting of the balance of power in Europe. If it was necessary in 1823 to use "power politics" to prevent encroachments in the Western Hemisphere by the Holy Alliance, how much more necessary it is in 1939, when distances have diminished and a very much more aggressive unholy alliance has come into existence.

Many of us in America are in the habit of thinking that if the United States does nothing it will never have any enemies and no other country will ever do anything to bring on war. It is interesting to see that the whole discussion of how the United States got into the World War has in recent years taken the trend of blaming American munition makers and bankers, or, more generally, American economic interests, or even more generally, a tendency of the American people to interfere in other people's affairs. We have quite forgotten that the German Government played any part at all in the events that brought us into the war. We have forgotten that their submarine warfare threatened what at that time were recognized as our neutral rights and that this warfare took a form that constantly kept the American people stirred up. We have forgotten that Germany declared unrestricted submarine warfare at a moment when the President of the United States was trying to open peace negotiations, having undertaken the task at their suggestion.

We have forgotten that the German Government tried to make an alliance with Mexico against the United States during those critical days when the balance between war and peace could be upset by a hair.

I mention these things not to stir up hostility against Germany but simply to illustrate that it takes two to make a war. I am recalling these facts in order to point out that there is no guarantee of safety for this country in simply drafting, but that there is some hope of security in utilizing the peaceful political forces available to prevent the outbreak of war, or to make aggression such a costly affair that nations will finally learn to respect each other's rights.

A provision for utilizing economic pressures to enforce respect for treaties may seem a small thing to set up against the tremendous forces that are loose in the world today. That does not mean that in time it may not come to have enormous significance. If we are ever to make any progress toward permanent peace we must develop and learn to use forms of pressure short of war for accomplishing international objectives. There is much else that needs to be done in the way of promoting habits of peaceful change, and solving domestic problems so that there will be less drive behind progress of aggression, but these things cannot happen as long as treaty violations and the irresponsible use of force are condoned—in fact, rewarded.

We have to remember that human progress is a slow affair, and that it will not happen all by itself. The peace that reigns within nations on a basis of respect for law and human rights has taken centuries to create, and it has been built up bit by bit. The history of the British Constitution is instructive on this point, and the analogy is more than a mere figure of speech. Many of the issues that were fought out in developing the principles of British government are the very issues that beset the problem of developing international law and order.

Permit me at this moment to read some excerpts from the Constitutional History of England, by George Burton Adams (pp. 129 and 138):

The historical importance of the Great Charter is to be found not in the specific provisions which it embodied but in the principle on which it was based. In 1215 this meant no more than an application of the fundamental contract relationship between lord and vassal to the special problems of the time, how to make sure that the King would be faithful in the future to his side of the contract. \* \* \*

This was a crude and clumsy expedient, but it is to be remembered that it was the first attempt ever made in history to put into constitutional form the principle that the Government must obey the fundamental laws of the state, for that is what the barons really did, though they could not have been as conscious of the meaning of their act as we are, nor should its clumsiness conceal from us that fact that in its attempt is clearly struck the keynote of English constitutional history, and foreshadowed faintly but perhaps truly what is its final triumph and greatest glory, for this was in truth an attempt to find a way of enforcing the fundamental law upon the King without the necessity of civil war and revolution, with civil war and revolution as a last resort only.

That is in very briefest form of statement what the Anglo-Saxon constitution is; it is a perfected method of holding the Government responsible to the will of the nation without the danger of civil war.

What the Great Charter did was to lay down two fundamental principles which lie at the present day as clearly as in 1215, at the foundation of the English constitution and of all constitutions derived from it:

First, that there exists in the state certain laws so necessarily at the balance of political organization of the time that the King, or as we should say, the Government, must obey them; and

Second, if the Government refuses to obey these laws the nation has a right to force it to do so even to the point of overthrowing the Government and putting another in its place.

The provisions of the Great Charter that grew into the foundations of the British Constitution were not very great in themselves. They did not solve all the problems of domestic government in England in 1215, or even a very great part of them. These provisions had to be fought for over and over again until they were finally fixed firmly—the process took almost 400 years, in fact. But though the feudal

system withered away, the fact that the English barons had once successfully asserted the sanctity of the feudal contract was of decisive importance in the subsequent history of the English people and of all the nations that have derived their political systems from that of England.

Our whole idea of constitutional government is based on acknowledgment of the sanctity of contracts and on the right of the governed to force the Government to observe its contract with the people.

In international affairs there is a network of contractual relationships among nations, rather similar to the contractual relationships of the feudal system, except that all the parties to international contracts are considered equal. This fact makes it possible to work through the principle of the sanctity of contracts in seeking to stabilize the international situation and induce the mutual respect that is essential to any system of permanent international peace.

The Congress of the United States has a great opportunity and privilege today to write into law a principle which in time may have consequences as great as the terms of the Magna Carta. I believe firmly in the ultimate triumph of the forces of peace in the world. It will not come all at once, probably not in our generation, possibly even our grandchildren will not see it. But it is worth while to build for the centuries. We who live under free governments should be grateful every day of our lives to the council of feudal barons that forced King John to agree to the terms of the Great Charter. Men and women living hundreds of years from now may have equal cause for gratitude to the Seventy-sixth Congress of the United States if it makes an effort to break into the vicious circle of international lawlessness and throws the power of the United States on the side of respect for the sanctity of international obligations.

Mr. BLOOM. Any questions?

Mr. CORBETT. Mr. Chairman, I appreciate the lady's very excellent approach to this problem, and I think her motives that impel those remarks are very good, but if I understood correctly, you are a historian?

Dr. BRUNAUER. Yes, sir.

Mr. CORBETT. Now, have historians agreed with any unanimity as to the aggressors in the World War?

Dr. BRUNAUER. Historians agree that in 1914 there was no evidence of an aggressor, and that is why many of us are seeking today to establish some sort of definition. That is one of the great difficulties of assessing the guilt for the outbreak of the World War.

Mr. CORBETT. Then we will drop the word "aggressor" for a moment. I will have another question on that, and as to fixing responsibility for the World War, do you find any two or even three historians that agree as to who is responsible?

Dr. BRUNAUER. Yes; after all there are not any more than two or three possibilities in assessing the responsibility for the World War, and the general impression of the historians, as a matter of fact, is that little Serbia was responsible for the incidents which provoked the World War, and that the responsibility for the politics and political situation in which a world war could break out, was shared by all countries. But I always come back to this point, that there had been no attempt made by even one nation to say ahead of

time that a country that went to war would face any other penalties than to have war made upon it, so the situation is not quite parallel to the present.

Mr. CORBETT. I do not want to open the discussion of responsibility for the war, except to indicate that you, as a historian, would be one of the few persons in the United States that would know anything about the responsibility of Serbia or of Russia or of France, and now then, under the terms of the Thomas-Geyer resolution, and since we have not been able to work out through all of the international negotiations that have been held since the war, an adequate definition of the "aggressor," do you feel, then, that a President, in the midst of his busy and active life, is going to be in a position to judge practically at the moment, or within 2 or 3 months, who is the aggressor, with any degree of infallibility?

Dr. BRUNAUER. I believe that witnesses are not permitted to ask questions in return?

Mr. CORBETT. Yes; they are.

Dr. BRUNAUER. This is a rhetorical question, if you like. Is there any doubt at the moment, who is the aggressor in the Far East? Is it really such an obscure point?

What I am trying to say is this: That in a situation which is so important that the President of the United States would feel that he must recommend and Congress would feel that it must approve his recommendation, that we suspend all trade with one group of belligerents, would it be so difficult to determine who had gone to war in violation of a treaty with the United States?

That section is put in the proposed amendment in order to avoid this difficulty of the independent judgment of an individual.

Since the World War, it is quite true that there have been a number of attempts to define "aggression" or to define the aggressor, and they have actually been written into treaties. Some of those treaties have not been ratified, and some of them have been. There have been treaties in South America that have been ratified, but there has not been a universal ratification of those treaties.

Now, there have been various definitions. There was an attempted to define the aggressor as a country that refused to submit its case to any court of arbitration, or judicial settlement, and went to war instead of submitting its case to peaceful methods.

There have been definitions of the aggressor as the country which first invades another country, and that definition is written into the whole system of security treaties of the Soviet Union, with its bordering states.

For the United States, we have rather followed out the general traditions of international law, in support of the general idea of the sanctity of contracts.

Mr. CORBETT. I do not want to take up too much time on that, but, of course, military strategy frequently requires the nation which might not be the nation originally to blame to move first, and that is one of the reasons why that definition of aggression was never acceptable.

Now, it so happens—I may as well make my position clear on this one point at least, that I feel that it is dangerous even to leave the determination of an aggressor to a body of the finest historical experts that

could be gathered or the finest judicial experts, if you please, and again I am not just absolutely sure that the nations which are the "have nots" and who are to profit by upsetting the status quo, are necessarily to be condemned by some force which sets itself up as a moral dictator in the world, to control and to prevent the securing of those things which that has been refused by peaceful negotiations.

Dr. BRUNAUER. In the first place, I would say that this is one of those questions which probably should not be given to a group of historical experts to decide. What I am proposing is that this question should be decided by the people who are in positions of responsibility, and who are familiar with the current political course of the world.

On this other point I want to say that it is not that the United States Government, that is, Congress and the President, look around the world and say, "Here is an aggressor." It is rather that at this moment, if this legislation were adopted, the President and Congress would say to the world, "From this point on, we will do certain things with regard to a nation which makes war in violation of a treaty with the United States."

The Thomas-Geyer resolution does not use the word "aggression."

Mr. JOHNSON. Will you yield right there? The question of designation of the aggressor nation is not involved at all in the Thomas-Geyer resolution, to which you referred; it is based on the single finding that the country went to war, against the treaty with the United States.

Is there any bill pending—I just ask for information—that does embody the aggressor-nation feature other than that? I do not recall now, and if I am in error I would like to be told. There have been a great many questions asked about aggressor nations, and I do not find any legislation incorporating that idea.

Dr. BRUNAUER. I do not, either.

Mr. KEE. As a matter of fact, the Thomas-Geyer resolution does not either authorize nor require any authority, the President or any other authority, to arbitrarily name the aggressor. In the event we should adopt that resolution, the aggressor would be pointed out automatically. If we find a nation that has violated its treaty with us, why, automatically that nation becomes the aggressor nation, and the law would apply, is not that correct?

Dr. BRUNAUER. Precisely. The nations of the world would know what would happen, in advance, and the aggressor would really select itself.

Mr. SHANLEY. I have a quotation here from Kitchen, which says that they find little to choose from as to the relative guilt for the World War, but he is inclined to hold Russia and France somewhat more blameworthy. Also Sidney B. Fay, in *Origins of the World War*, and probably the greatest authority on it, balances the evidence and concludes that the responsibility was about evenly divided.

Smith, in *The Coming of the War*, also finds all of the parties responsible, but holds Germany and Austria somewhat more responsible, and says "No reputable historian holds either side even preponderantly to blame."

Dr. BRUNAUER. We are trying to prevent the next war, rather than fight over again the last war, and we are trying to do something

that was not done in 1914—to create an attitude, if you like, perhaps even a system of obligations, that did not exist in 1914. We are trying to go beyond the world of 1914 and it is only if we go beyond the world of 1914 that we can hope to avoid a repetition of what happened then.

MR. SHANLEY. When a statement is made that a certain thing is a cause, the origin, and the genesis of the World War. You cannot prevent us from saying, "Is that so?" The past is known to some of us; the past may reflect the future in a prophylactic way.

DR. BRUNAUER. Is there any great difficulty about knowing when a country has gone to war in violation of a treaty with the United States?

MR. SHANLEY. I will answer that by——

DR. BRUNAUER (interposing). That is, in the terms of the resolution.

MR. SHANLEY. I am answering that by saying that whether the violation goes to the essence of the treaty or not is another question. As a matter of fact, at the Lima Conference, there was absolutely a hesitancy on the part of the delegates there to pick out the aggressor, or to give a definition of "aggressor". You yourself, in going back to the genesis of the World War, went back to Serbia, and you might have gone right back to the council of 1815. Where are we going to stop? Is it ad infinitum.

MR. BRUNAUER. I propose to stop by giving notice to all of the world right now, that any nation that goes to war in violation of a treaty with the United States, may expect to have its trade in munitions and raw materials with the United States cut off, and may expect that the country or countries that it attacks will continue to obtain in some form the economic resources and supplies of the United States.

MR. SHANLEY. All they have to do is just nullify any treaty that they have had. This is an ex post facto penalty that we are imposing now, is it not, on all treaties that we have made up to the present time? There is nothing in the present treaties——

DR. BRUNAUER. Of course, if you go back of that treaty, the very respect for treaties is based upon some fundamental international law. After all, our whole internal government is based on much more than the phrases of laws. It is based upon the feeling that there is a fundamental law which must be observed, and the observance of which can be forced.

MR. SHANLEY. Of course, there are two elements in that sanctity. One is that we believe we know where a nation has a right to revoke any treaty when it sees fit. Another is that we ourselves by congressional acts will often revoke a treaty without even any notice—we have done it in the past. Therefore, the so-called sanctity of treaties has not become a very serious deterrent to those that wish to do it, even in our own history.

DR. BRUNAUER. What I propose is that it should become permanent.

MR. SHANLEY. Well, now, I agree with you there. Future treaties should be made with that in mind. As a matter of fact, had that been done, we would not have misled the Chinese in the open-door policies. The open door seemingly has been nothing but an open door to the British, and others.



Dr. BRUNAUER. I have studied to some extent the history and politics in the Far East but I do not recall that from the time of the first enunciation of the open-door policy up until the conquest of Manchuria by Japan there was any feeling that the open-door policy was not effective, within the terms of that policy in China.

Mr. BLOOM. The chairman would like to say a word here, please. We have just received a call that it is very necessary for the committee to adjourn and be on the floor so I regret very much that we will not be able to continue these questions today, but you are right here, Doctor, and if we may have the pleasure of some other day having you return?

Dr. BRUNAUER. I should be very glad to return.

(Witness excused.)

Mr. BLOOM. And Mr. Lash, could you come some other day? I am awfully sorry that something unexpected came up, the first time it has since we have been holding hearings, so if you could come some other day we would be glad to have you come.

Mr. LASH. I have to go back to New York.

Mr. BLOOM. That should not be a very hard or difficult task, to go back to New York; but some day next week—we are going to continue this all next week, and the clerk will get in touch with you.

We are very sorry, indeed, that this just came up at this moment, and also, Doctor, because I know that every member of the committee is very much interested in what you have been saying, and I know that they have some questions to ask you, but this is a condition that we cannot avoid.

The committee will adjourn until 10 o'clock Monday morning.

(Whereupon, at 11:30 a. m., the committee adjourned until 10 a. m., Monday, April 24, 1939.)



# AMERICAN NEUTRALITY POLICY

MONDAY, APRIL 24, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order for the further consideration of bills to amend the Neutrality Act. The first witness this morning will be Mr. Quincy Howe.

## STATEMENT OF QUINCY HOWE, NEW YORK, N. Y.

Mr. HOWE. I do not think that I need to take your time by reading this.

Mr. BLOOM. Please give your name and address to the reporter.

Mr. HOWE. Quincy Howe, 1133 Park Avenue, New York City.

Mr. BLOOM. Whom do you represent?

Mr. HOWE. Just myself, a writer.

Repeal of all existing neutrality legislation, and refusal to enact any further measures, offer, in my opinion, the best guaranty possible under existing circumstances of the national interests of the United States. The measure sponsored by Senators Nye, Clark, and Bone offers, of course, the best guaranty of keeping America out of war, but this measure can prove effective only if it is tied in with a comprehensive program of Government controls over private business and Government subsidies during a period of foreign war. Unfortunately, few Americans seems disposed to make the sacrifices that would be required to remain at peace in a warring world. All the other neutrality proposals, including the present act, commit the United States to support the status-quo powers in varying degree. Their relative merits have been fully discussed; their contents are by now quite familiar to everyone interested in the subject.

Two points, however, deserve special attention. The first is that the supporters of such measures as the Thomas amendment, The Pittman Act, and even the present act, have been associated in the past with a series of equally disastrous proposals based on a demonstrably false conception of international politics. The second is that all these measures tie the hands of those who are conducting American foreign policy and involve concessions to other countries which should not be made without some quid pro quo.

From the time the Versailles Treaty was signed a considerable and highly articulate section of the public has attempted to base American foreign policy on the theory that the Versailles settlement could

be perpetuated for all time or at any rate peacefully adjusted as occasion demanded by an enormously preponderant group of nations. Those who have operated on this theory have urged American participation in the League of Nations, in the World Court, and in an imaginary system known as collective security. Most of them therefore favor today some kind of neutrality act that will in effect throw the economic and perhaps the military power of the United States behind the status quo powers.

There is only one thing the matter with the people who advocate this course of action. It is that they have invariably misjudged the course of events. Last autumn, for example, they argued that an economic quarantine of aggressor nations would stop Germany without war. When such an alinement failed to materialize they then proceeded to announce that unless the United States threw all its power behind the status quo nations, Germany would dominate Europe and perhaps the whole world—that same Germany, mind you, which was so weak 6 months ago that economic sanctions would have knocked over the Hitler regime.

Now, I am skeptical when anyone tells me that such and such a course of action will upset Hitler, ruin Mussolini, and starve out Japan. Nobody knows quite so much about the future course of events as all that. And I am especially skeptical when the people who give me these assurances have been proven mistaken time and again when they gave me similar assurances in the past. And I am not sure but what the same objections do not apply to some of the advocates of the Nye-Clark-Pope proposal who are equally emphatic that it will keep America out of war.

Under the circumstances, then, it would seem to me the part of wisdom not to take any stock at all in people who are so sure that they can legislate the future and to restore complete freedom of action to the foreign policy of the United States. The President and the State Department will then be free to make their decisions not on the basis of moral distinctions between aggressors and their victims or in relation to some imaginary alignment of so-called peace-loving nations. They will keep the dictators guessing and they will also keep the status quo nations guessing too.

For there is one thing that a good many Americans seem to have forgotten these days. The status quo nations, especially Great Britain and France, owe the taxpayers of the United States some 10 billion dollars on the last war to make the world safe for democracy. Before committing ourselves to support them in any other crusade it would therefore seem timely to suggest some kind of settlement on the last one. If we write no definite neutrality legislation in advance and retain complete freedom of action, at least we can suggest that we receive some compensation, perhaps in the form of raw materials, perhaps in the form of New World territories, perhaps in the form of tariff concessions before again underwriting a cause in which, after all, the vital interests of the British and French colonial empires are more immediately involved than the national interests of the United States.

Mr. BLOOM. Are there any questions?

Mr. JOHNSON. The statement is very clear, and I do not see any question that I would like to ask.

Mr. BLOOM. I would like to have you elaborate upon the "six months" reference to Germany.

Mr. HOWE. That is not anything that the President said, but the general line that you have heard from such people, as well as the crowd behind this Committee of One Hundred meeting down here, Shockwell, and those people, who last fall were urging at various times, Dorothy Thompson, and so on, that if only all of the countries would stand together against Germany, with economic pressure, why the whole thing would topple over. Now, these same people-----

Mr. BLOOM. Topple over which way?

Mr. HOWE. That Hitler's government would fall and collapse. It was said that the only thing that was needed, if France and England and Russia would stand firm, and tell Hitler that there was nothing doing, that the German regime would have fallen, that Germany was very weak, and was all ready to tip over, that there would be a revolution if Hitler could not have had Czechoslovakia. Now these people are saying that Germany is so strong that it is going to ruin the whole world.

Now, I do not know whether they were right, whether Germany would have fallen last fall, or whether Germany could ruin the world now, but I just think that people who are so awfully sure of what is going to happen, and then the thing that they want to have happen does not happen—I am a little skeptical of those people.

Mr. JOHNSON. Is it not characteristic of the people to be a little too dogmatic on all sides of this question? In our experience here listening to various witnesses advocating different theories, so often we find a man who thinks his suggestion is a panacea, and the other man's is not. The trouble is that the more you hear of it, the more convinced you are that nobody ought to be dogmatic upon a question so complex as the one which we are dealing with. Would not that be your idea?

Mr. HOWE. That is what I have been driving at all along. My own personal predilections run a little more toward this Nye-Clark-Bone proposal, but having heard this thing debated and thought about it more or less, and you have heard a lot more of it than I have-----

Mr. JOHNSON. We have been hearing about it for 3 weeks.

Mr. HOWE. I am more and more inclined to think that all of these people, perhaps, are obsessed with their own cure for the world, and it might be better to let the President have the authority, and I hope he has done something in the course of the last year or so.

Mr. BLOOM. Would you mind a correction in your statement, Mr. Johnson? You said that we have been listening to hearings for about 3 weeks. You mean 14 years and 3 weeks.

Mr. JOHNSON. I mean the recent hearings. I am referring to the present session of Congress.

Mr. BLOOM. That is what I am getting at.

Mr. JOHNSON. We have had this for a number of years, that is right. The chairman is right.

The trouble also, my experience is, that so many people express views about this question, and their views are superficial, and they have not thought it out. You have written books and thought it out, and people write letters and say that they favor a certain measure, and upon inquiry they do not know what that method is, and they hear something over the radio or somebody makes a speech, and they

get an idea that maybe a certain thing is to be done, and yet they are not clear in their own mind what they are advocating.

That is the difficulty with the question; there has been a lot of loose talking and a lot of loose thinking on all sides of this question.

Mr. HOWE. As a result if this, people with the best intentions in the world, who want just the same things as I, and I imagine all of you, will tie themselves up with a theory that was based on an emotional mood which will maybe change. The situation will be different 6 months from now.

Mr. CHIPERFIELD. Do you not think, Mr. Howe, that the people as a whole have come to identify neutrality legislation as abstention from war, and therefore they feel that the stricter the Neutrality Act, the less chance we have of getting into war? They have not really taken into consideration some of the characteristics of those restrictions or just what kind of restrictions we should enact, as neutrality legislation, but they simply think the stricter you make it the stronger you make it, and the less chance we have of getting into war.

Mr. HOWE. There is no doubt, they think that, and they also think that the neutrality legislation alone would be enough. Like this Nye-Clark proposal. That is a perfectly good proposal, but in order to have that effective, you will have to have an absolute dictatorship over private business, and Government subsidies, and all sorts of things, if you really are going to keep this country going, without any relation to the outer world, you would have to have people somehow insulated against getting any ideas, and emotional reactions, if London or Paris were bombed, or something of that sort.

Mr. CHIPERFIELD. Mr. Howe, do you think that there are, however, some restrictions, whether they would be strong enough to keep us out of war or not, yet they might be a good thing? For example, do you think that we could enact some legislation that perhaps would minimize the risk of involving us in war without perhaps going so far as embargo, or something of that kind?

Mr. HOWE. Yes, I think that you should have the utmost freedom to do that sort of thing; in the early weeks of the Chinese-Japanese war, although the Neutrality Act was not applied there, the President did in the early stages, warn Americans going on boats in the area of war, and I think all of these things that are provided for in these various proposals, all of these things that people are in favor of, like not shipping goods to Japan, and so on, can perfectly well be put into effect without having the strait jacket of legislation, such as these different acts, all require; that you can get the same result without requiring it.

Mr. CHIPERFIELD. Then, in reality, instead of having an outright repeal of the Neutrality Act, you would retain some provisions that might minimize our being involved in a foreign war?

Mr. HOWE. Well, it seems to me easier and cleaner, to break off the whole thing, and simply as the occasion arises, perhaps some legislation would be necessary to give the President or State Department power and authority to declare embargoes, to say that American ships shall not go into such an area, and to say that all trade shall be done on a cash-and-carry basis, but I think it should be on the basis of the situation, and not as a matter of principle, because these principles are likely to finish with our getting tripped up on them.

Mr. EATON. I gather that the net result of Mr. Howe's thinking is to this effect: Let us get rid of the statutory so-called neutrality law, which puts the strait jacket around the President in case of a world conflagration, and leave it up to the administration to face the situation as it is, and the value of that would be that it would keep both classes abroad guessing, and the uncertainty would be a more powerful agency for peace than any legislation that would be passed; that is, they would not know what the Americans were going to do, and until they knew it, they would not like to move.

Mr. HOWE. It gives us greater freedom in just that respect. Yes, I think that that is the soundest thing, mainly to give the Executive the same freedom that all other heads of governments have, in the conduct of foreign affairs--there is no reason why Mr. Roosevelt cannot make it perfectly clear that the United States would in no circumstances help Germany, that if anything were done by Germany that might involve a threat to the freedom of the seas, that we would help Great Britain and France, but that in turn, those countries would have to give us some quid pro quo for our aid.

After all, as I said, they still owe us money on the last war debt, and I think the first thing you know, if you let some of these neutrality proposals go through, all of that 10 billion dollars will be out the window. There is no reason why we should not make some little effort to get some little bit of that back.

Mr. BLOOM. Where is that now?

Mr. HOWE. In Liberty Bonds, on which no payment is coming in from the outside.

Mr. STEARNS. Mr. Howe, if you do not have legislation, suppose that there is some matter like an embargo on Japan, which the people of the country come to have a fairly strong feeling on, and they want action taken, do you believe that they can make their views--and impress their views on the administration through some other form?

Mr. HOWE. That was the trouble with the present Neutrality Act, that if we had embargoed Japan, and prevented those munitions from going there, the theory was that we would then also prevent China from getting anything, and the thing was made on the basis of the moral distinction between Japan and China.

Now, it is not at all impossible that Italy may be detached from the Berlin axis, and now Italy, there is no question, again, is an aggressor. Now, suppose Italy comes in with France and England, the way they did last time, and then we have the Neutrality Act, and we cannot aid an aggressor, and Italy is an aggressor, and we cannot help Italy--that is the sort of thing you are likely to get yourself in for by conducting a policy on the basis of moral propositions.

Mr. STEARNS. My constituents write in to me and want certain things, they think we ought to pass certain legislation. What they really want is that the administration should know their views on the thing.

Mr. HOWE. I think that they will have a greater chance to make their desires felt and the administration will be able to defend the interests of this country as the majority of the people see it, better, if you do not straitjacket them. I am personally in favor of having an embargo on Japan, but I think that it can be done better if you do not tie it up with an act which may tomorrow work against some-

one who may be an aggressor but who nevertheless has interests which run parallel to the interests of this country.

Mr. STEARNS. In spite of that, we have not had the embargo on Japan yet.

Mr. HOWE. That is right, because if you had that embargo on Japan you would have to embargo China, too, on account of the present act.

Mr. BLOOM. Did you listen to the broadcast yesterday of the round-table of the University of Chicago?

Mr. HOWE. I did not; no, sir.

Mrs. ROGERS. Do you not think it is unfortunate for us to have laws on our statute books, that are not enforced? I voted against the present so-called Neutrality Act, because I felt that you cannot legislate neutrality, and the cash-and-carry provision, if it were enforced, would be a pro-Japanese, pro-British law, because, of course, Japan and the countries with ships and money, can come and get their supplies cash and carry.

Mr. HOWE. The reason that the present law was not enforced, is that it was up to the President to say whether there was a state of war or not. Now, you may disagree with the President's interpretation of what is going on in China; he says it is not war, because there has been no formal declaration of war, so that I would not say that the present act had been violated. I would say that the President would have been pretty broad in his interpretation of what is a state of war; but I do not think that he actually violated the act. He might have violated the spirit of it, but not the letter. That was the big quarrel on the act, of the discretion of the mandatory part.

Mrs. ROGERS. Since the Kellogg Peace Pact, the countries do not declare war any more; they just fight it.

Mr. HOWE. So the present act, as far as that is concerned, it might just as well never have been on the books at all, as far as actually being applied at all. There was a little mistake in the earlier testimony in the Spanish thing; the embargo of the loyalists was not part of the present Neutrality Act at all; it was a separate act, put through by Phillips-Hull, and Roosevelt, in their own instigation. It was a separate thing, and perhaps it would not have happened if the other act had not been on the books but it is a separate or was a separate act.

Mrs. ROGERS. That was the first thing that Congress passed.

Mr. HOWE. Yes.

Mrs. ROGERS. That was, of course, prior to the enactment of the present law, the one that is now on the statute books, the cash and carry provision.

Mr. HOWE. Yes, you are right, it was May 1, 1937, there was an interim measure.

Mrs. ROGERS. That was the first thing that we did, the day Congress convened, and then it seems perfectly clear to me that the other countries could pay their debts in part by giving us raw materials, and they make no effort to do that, and they expect us to give them money and supplies now.

Mr. HOWE. There has been recently talk of getting nickel, and rubber, and various raw materials, from these countries, in exchange for some settlement on the war debt. We might have tariff concessions and we might have other things.

Mrs. ROGERS. I think that they ought to give it to us in part payment, and then we would have something, certainly.



Mr. HOWE. That would be a sensible thing, and if you do not have this sort of Thomas amendment kind of neutrality, or even the Pittman Act, if you do not have those, which are in a sense a concession to Britain and France, then you are in a position to get some of these necessary raw materials, some other concession, before you simply turn over and open up your markets to France and Great Britain, really, in exchange for nothing. I do not think that we should be quite so generous as that, so open-handed. The other countries are not, and I do not think it is unpatriotic to suggest that America should look out for its own interests, even though it may seem to be a little bit ungenerous.

Mr. JOHNSON. I have just one question. Concerning the failure to invoke the present Neutrality Act in the Chinese-Japanese conflict, as you say, there is a legalistic background upon which the President may decline to invoke, but regardless of whether he is right or wrong on that legalistic ground, do you not think the American people are in sympathy with the President's failure to invoke the act?

Do you not think that the majority of the people did not want the President to invoke it?

Mr. HOWE. Yes; I think that they did at the time and probably still do. I think that they feel, and felt that by not invoking the act, the President was helping China, and I think that that is why they felt that way.

Mr. EATON. I am not quite clear as to the position of the witness at this point. Do I understand that he is in favor of using the neutrality legislation for the purpose of debt collection, or is he in favor of substituting a process of debt collection for the Neutrality Act?

Mr. HOWE. The latter, keeping freedom of action would enable us to get something on the war debt, some kind of settlement, before guaranteeing various forms of assistance. If some of these neutrality acts go into effect, then those concessions are already made to France and Great Britain; the markets are already open to them, and there will be no way that we would be likely to get anything back on the debts.

Mr. EATON. I think under the circumstances England and France owe us a great amount of money, and are in deadly danger. They are under a menace, and now if we under those circumstances start trying to collect what they owe us, do we not join the dictatorships?

Mr. HOWE. No; because we can get various concessions in exchange from Great Britain and France, which would actually help them, for instance, of naval bases in this part of the world. If we are going to police Latin America and make that our special territory, well, then, let us free the British Navy from having these expensive bases, protecting territories that it has not got much of a stake in, and take them over ourselves, and let us take some of this rubber off their hands that they are loaded up with and nickel and so on.

I think that if you went about it in that way, there would be no delay in any assistance we might give to England and France.

Mr. KEE. Returning to the question of the enforcement of the Neutrality Act, between China and Japan, do you agree with me that it is a mistake to say that the Neutrality Act was not enforced on that occasion? In other words, the Neutrality Act gives the President the discretion to say under what conditions the act shall be applied, and until he finds such a condition existing, and finds that under the

discretion given to him by the act, that that is the condition in which it should be applied; then the act cannot be enforced, and as a matter of fact there has never been any failure to enforce the act; it was simply the President did not find that that was a condition under which the act should apply.

Mr. HOWE. I think that there is a perfectly good case for the President's not enforcing that act, a perfectly good case. I am inclined to agree with you.

Mr. KEE. He did not fail to enforce it. He failed to find a state of war.

Mr. HOWE. Yes.

Mr. KEE. A condition in which it should apply.

Mr. HOWE. Yes; and that would have made the act apply.

Mr. KEE. And he was perfectly within his rights under the act.

Mr. HOWE. Perfectly within his rights; yes.

Mrs. ROGERS. But it makes a farce of the whole thing.

Mr. HOWE. In a sense it does.

Mr. BLOOM. Any further questions?

Mrs. ROGERS. What will be the effect on our trade, if for instance, Italy and Germany won, would not we trade after the war with them? Would not our trade go on, and would we have more trade with South America while the war was in progress?

Mr. HOWE. I think it would be very dishonest of me to try to answer that question at all. I do not think that you can say what our trade would be if Italy and Germany won. It would depend upon the kind of victory that they had. I have a personal belief that if they won that there would be social revolution in Europe, but that is just an idea, and I do not think that you can say definitely that far ahead. I could give you a guess on it but I do not think that it would be worth the breath it would take to say it.

Mrs. ROGERS. It would be absurd to state that?

Mr. HOWE. I do not think anyone could tell what would happen.

Mr. ARNOLD. Would not that policy of the collection that you mentioned, lay a basis without taking into consideration the right or wrong of the cause, or participation in the next war?

Mr. HOWE. Would it ally us—I think that it would make very little difference as to whether we went into the next war or not. I do not think that it would have much bearing on that.

Mr. ARNOLD. But coupling the payments with our interest in the next war, it would so aline us that by coupling those things together, we would become involved from the very outset.

Mr. HOWE. It would be one of the factors that would involve us, that would commit us, to the support of the status quo powers, there is no question about that. It would commit us economically, and tie us up economically on that side, but that seems to be what the people of this country, they want to support them without going to war to do it.

Mr. BLOOM. Mr. Howe, the committee feels very grateful for your coming and giving the benefit of your views on this legislation, and we want to thank you very, very much.

**STATEMENT OF MRS. GEORGE A. FITCH, PASADENA, CALIF.**

Mr. BLOOM. Mrs. Fitch would you give your full name and address to the reporter, and whom you represent?

Mrs. FITCH. Mrs. George A. Fitch, Pasadena, Calif., or Chungking, West China, whichever you prefer.

Mr. BLOOM. Which do you prefer?

Mrs. FITCH. I prefer Chungking as soon as I can get there. Mr. Chairman and members of the Committee on Foreign Affairs, I appear before you as an American to speak for myself and some 40,000 others from my part of California—whose signatures I present to you—on American foreign policy, especially as it relates to the Far East where I have lived for the past 20 years.

Mr. BLOOM. You represent the committee on nonparticipation on Japanese aggression? That is, the committee you represent?

Mrs. FITCH. Yes; and backed up by these 40,000 from my part of California, especially as foreign policy relates to the Far East where I have lived for the past 20 years.

I am, sure, gentlemen, you have heard of cross-questions and crooked answers, with a list of questions, such as; "Alexander Graham Bell wrote 'Uncle Tom's Cabin,'" or "Benjamin Franklin discovered America." The question is; "If he didn't, who did?" Again, "Christopher Columbus invented the telephone." "If he didn't, who did?" Somewhere on the list would be every right answer, though in the wrong place.

I am reminded of this little game when people hedge at any distinction in attitude and action between aggressor and victim, between treaty breaker and law-abiding nation. Much attention has been focused this week on events in Europe moving with kaleidoscopic rapidity. My remarks will deal more directly with the Far East—and this for a very definite reason. The American people and Government are more concerned about the situation there, where American interests (economic, political, and cultural) are already badly disrupted, and the future is threatened with worse potentialities.

But what about the right answers in the wrong place, or vice versa? Neutrality sounds right, therefore many people say, "If only the President had invoked the Neutrality Act, everything would have been fine." Would it? Would the American people have been happy about legislation which would have done more to harm the victim than to the aggressor, which is just what the Neutrality Act would have done in the Far East? The sale of munitions would have been prohibited to both countries, while to Japan raw materials for her munition factories would have continued to flow on the cash-and-carry, "come-and-get-it" plan. As far as the public mind is concerned, the time of apathy has past.

"We don't want war! We don't want war!" is so convincing, and has been repeated so often that it has become a parrotlike slogan, coupled with no constructive efforts toward preventing wars. "Keep America out of war" sounds so noble that few have realized that there is ultimately only one way to keep America out of war. That, gentlemen, is to keep war out of the world—no longer an impossibility, paradoxical as that must sound today. This passive pacifism has nearly led us into another great world conflagration. The green light

of our Neutrality Act has been the "go-ahead" signal for every aggressor who has thus been reassured that America would never take action stronger than words. Today the "ganging-up" of aggressors has become a threat to every nation, large or small, that loves freedom. It is forcing us into another armament race that makes past armaments look like kiddy-car races. "We don't want war." Neither did China. But China has war, and so will we if we do not stop helping the Rome-Berlin-Tokyo axis. The most vulnerable arm of this axis, fortunately, is the one with which we are most concerned. And, incidentally, the one we have done most to strengthen.

Peace organizations, any number of them, talk about "poor, suffering China," but many people meet the suggestion of severing trade with the outcry, "This would make innocent Japanese suffer," or "We would offend Japan, and that means war." Innocent Chinese are suffering—millions of them. No one explains why all the suffering should be on one side. No one explains why we should be afraid of offending Japan, but think nothing of offending 450 millions of long-suffering Chinese. We count too much on their cosmic patience. No, the fear of offending is the fear of war. The usual statement is: Japan would immediately retaliate on American citizens and American properties.

When anyone makes this statement he forgets—or is uninformed—on two points: (1) That the Japanese military will do anything to American citizens or American properties whenever they get ready, regardless of what we do or do not do. One would think the sinking of the *Panay*, the machine-gunning of the British Ambassador's party, the looting of all our American homes, as well as of every other nationality, in Chinese territory, the slapping of an American Embassy official's face, would be sufficient illustration of their disregard of other nationalities. (2) That the Japanese war machine cannot move without American aid. Her whole fabric of heavy industries is geared to the American plan. To illustrate: 61 percent of her oil comes from this country—petrol and oil products, motor lubricating oil for metal works, high octane gasoline—and America is the only place to get the kind of oil her American machinery requires.

Dr. Judd bore me out in that the other day.

Now, as a matter of fact, innocent Japanese are suffering, and are due to suffer more—see "Japan's Silent Millions," Reader's Digest, November 1938. Not because of us, but because of their own military clique. Though in no sense comparable to the unparalleled suffering of the Chinese people, the suffering of the Japanese under suppression of democratic rights, under an inverted pyramid of mounting taxation, under unemployment when war industries lapse, will go on into the years ahead. Unless the military warlords—robbing the people of prestige and power—are defeated. There is no freedom for the Japanese people until they again achieve control of their government. The 100,000 businessmen in Japan arrested for violation of Fascist control, the Osaka industrial group, the exporters, the labor groups, the farmers—whose sons are not in Japan tilling the soil, but in China killing the Chinese—these are the basis of a new democratic government once the military clique has been defeated. For the sake of Japan, as well as of China, that clique must be defeated.

Make no mistake, gentlemen: What we are witnessing in the Far East is not only the assassination of China. It is also the national

suicide of Japan. Those who work to stop the war in the Far East are working for the double good of the people of China and of the people of Japan, and—with expediency and self-interest, fortunately, on the side of right—for the best interests of America as well.

There is another right answer frequently used in the wrong place. An oft-repeated alibi for doing nothing in the present situation—also to be laid at the door of the pacifist—as I, who am a pacifist, dare say—is that all nations have been guilty in the past. Gentlemen, I submit that this is the poorest reason for not doing better now that I have ever heard. It is not a question of “Who will cast the first stone?” or of taking up Japan’s own strong-arm methods against her. Japan joined with other powers in achieving a new world-order, an order based on treaties which outlawed war, renounced it as a means of settling disputes, agreed to respect the sovereignty and territorial integrity of China in this period of her reconstruction. No nation which agreed to the new relations in international affairs, the new rules of the game, can now be excused or condoned for breaking them. Nor is it any help to the people of Japan for western nations to strengthen her military clique and keep her war machine going. I want to make this point clear.

I am not afraid of the eventual outcome. [Not if it takes 100 years!] The war is more than a headache to the Japanese military today. It is a nightmare. I believe the Generalissimo Chiang Kai-Shek was right when he said not so long ago: “Japan has lost the war. China has not yet won it.” What I am concerned about is how much more of China must be destroyed, how many more civilians killed and maimed or burned to death in incendiary raids. (For how the war is being waged, I refer you to Reader’s Digest, July 1938—my husband’s eyewitness account of what happened in Nanking.) A recent report from an American observer in Shansi Province says: “We estimate that between 3 and 4 million civilians have been killed in the rural areas of this one Province alone.” I have circularized Congress with copies of an open letter from my husband in the new capital to President Roosevelt. Take the reference to one or two progressive cities of the West:

Approximately 600 people were burned to death in Kweiyang, among them a personal friend of mine and his entire family of six, through the use of incendiary bombs; four-fifths of the business district was destroyed; over 6,000 families have been rendered homeless, while the 9 hospitals are crowded with the maimed and wounded. At Wanhhsien (on the Yangtze) women and girls who were washing clothes at the river front, were mercilessly machine-gunned from the air.

In other words, the war is still going on, in just the same intensity that it was 21 months ago, and it is my concern, how much longer it has to go on because of our help to the Japanese war machine. It is not my fear that some day whether it is 1 year or 100 years from now, China will not throw off this yoke.

We all know what Sherman called war. You know in a general way what the war in China is like. I venture to say that never since modern mechanical devices have been invented have they been used with such inhumanity to man. I do not need to labor this point. I simply want to say: To end the whole ghastly business quickly is not only to save China but to release the people of Japan from insuperable burdens of suppressed rights, mounting taxation, disastrous loss of manpower. The manpower of China is to that of Japan as 7 to 1.

Which country will suffer more in the next generation? Miss Haru Matsui, Japanese woman in New York City, says: "Anything you do to stop the war is a help to my people."

You may very well reply, "Granting all this, what of it? The Japanese have brought this unfortunate situation on themselves—let them get out of it the best way the can." True, except that the Japanese military and the Japanese people are two different entities. Also, that peace in the Orient is very much to our own best interests, and, conversely, to strengthen the Japanese military is to menace our best interests.

But there is an important point yet to consider. The game we play in 1950 may read: "In 1937-39 Japan defeated China in an undeclared war. If she didn't, who did?" If that day ever comes (which I do not grant, and pray God that it may not), the answer which fits will be, "American airplanes, with American high-test gas to fly them, loaded with American bombs, and only Japanese aviators to operate them, destroyed law-abiding, peace-loving China in 1939." Whose war is this, and what can we do about it?

It is our war for many reasons, three of which—with your permission, gentlemen—I will mention:

(1) It is our war because we claim to be on the side of democracy, and in China we have the largest number of people in any country on the face of the earth—450,000,000 of them—who want to stand for democracy, and we are helping their enemy to destroy them.

(2) It is our war also because Japan is ruining our best potential market of the future. She is ruining her own best market, too, by destroying China's purchasing power. But we are helping Japan ruin a present, and a greater future, market for us. Does that make sense? Have we any trade with Formosa or Korea or even Manchuria—except in war supplies? There is no "open door" in any of them.

Let us get this straight. If Japan wins, she exploits the 450 millions as serf labor and finds her raw materials in China. We lose Japan's trade and commerce. We lose also the potential trade in China. I have figures for the six southern and western provinces only, which are still "free China." Szechwan province alone has a coal reserve of 9,874,000,000 tons. Its yearly output is above 600,000 tons. Hunan has an annual production of 1,000,000 tons. These same two provinces produce about 20,000 tons of pig iron annually. Yunnan, Szechwan, and Kweichow produce approximately 500 tons of excellent copper yearly. Yunnan turns out 8,000 tons of tin every 20 months. I might go on with antimony, tungsten, zinc, manganese, and so forth. China has also an over-supply of tea, bristles, leather, hides, silk, and most important of all, tung oil or wood oil. This commodity backs the \$25,000,000 credit loan from the Import and Export Bank and so far, despite the difficulties of transportation, the quota has been maintained.

On the other hand, if Japan loses the war, she must still trade with us. Take cotton, for example, as one commodity of great concern to America—and steel.

North China had a cotton surplus before the war. The Japanese with improved American cotton, at a conservative estimate, could increase that surplus by twenty times, helping to free her of all dependence on American cotton, and, at the same time, putting her

in the world market as a competitor. With China's raw materials mentioned above, Japan will be able to lay down steel products in the shadow of the steel mills of Pittsburgh, and the shadows will be as long as the mills are silent. If she conquers China, gentlemen.

Why should we build up a Frankenstein in the Orient to menace our interests through all the years to come? Much has been said of treaty-breakers and refusing to trade with them. I believe in the principle thoroughly. I do not think it means setting ourselves up as a judge. I believe nations define themselves as aggressors when they break treaties to which we also are signatory. Because I believe in the principle referred to above, I am for the Thomas amendment or any other legislation which—out of our moral apathy of 20 years—will say, "We believe in the sanctity of treaties, and we will not trade with treaty-breakers." But I want you also to look at this from the most realistic, cold-blooded standpoint of our trade and commerce, and ask if it is to our interest to support a war-machine which will eliminate American shipping from the Pacific. Gentlemen, if we want to live in a world where freely moving trade insures the prosperity of our own and other nations, we have a problem here of immediate concern.

(3) In the third place, it is our war because we are Japan's largest partner--furnishing 54.4 percent of all the raw materials and finished products which Japan needs to carry on her aggression. We are far from being neutral vis-a-vis this war in China, and we are still farther from being right. I take it that you gentlemen of the Foreign Affairs Committee know the general divisions of this 54.4 percent average. Japan gets from us:

	Percent
Of trucks, autos and parts.....	91
Of copper.....	93
All oil.....	60
Pig iron.....	41
Other iron (scrap).....	60
Machinery and engines.....	48
Of high-octane gasoline.....	100

Of refined gas to keep the planes bombing China's colleges and universities, hospitals, missions, libraries, and museums, as well as helpless women and children, we in America furnish 100 percent. Japan can get it nowhere else in sufficient quantities, nor has she any facilities in Japan for refining it. Nothing in Japan's whole campaign in China has so outraged the world as these continued, incessant, indiscriminate bombings of civilians—boatloads of refugees bombed and machine-gunned on the Yangtze river, whole villages and walled towns deliberately fired and wiped out of existence. Do what you will—and should—about scrap-iron. Stop it as soon as you please—under any pretext: because we need it for our own defense program, or because our steel industry objects to the rising price levels—but remember that Japanese planes could not fly over China with their death-dealing bombs except for our high-test gas. Almost nothing is said about this.

Much the same is true of the other raw materials. The difficulties of finding new markets, or markets at higher prices, would now be disastrous in a campaign which is already bogging down. This is the most vulnerable arm of the Rome-Berlin-Tokyo axis. It is the easiest arm to amputate. It is an embargo on our own people, not a punish-

ment of Japan. One day in a democratic Japan, her people will thank us for helping to defeat the clique which has throttled the soul of Japan. Japan has not enough credits left to change to higher-priced markets. Other nations—especially those to whom she would naturally look—are busy with their own armament program. The risk is non-existent—the benefits enormous: To China, to Japan, and to the United States. Just keep in mind that Japan's war machine cannot move without our help.

Some of us—I refer chiefly to the Committee of One Hundred for Concerted Peace Action, of which I am a member—believe we have found the means of preventing future wars. I notice that the previous speaker said that they suggested this plan of using America's economic strength some time ago, and now they thought that Germany could rule the world. The plan, of course, has never been tried, as yet, and they are still of the same mind, because I sat in on their conference last Saturday and Sunday, a week ago. They still believe that it is the method, too, that will make our participation in another war unnecessary. The economic strength of the United States—the nation which turned the tide in the last great war—the nation stronger and more nearly self-sufficient than any other country today—the nation without whose help no war anywhere can long continue—the United States can today both prevent and stop wars if we ever rise to our political and economic maturity.

But as Dr. H. H. Kung, premier of China, says:

Amazing insanity—instead of helping us, you are helping Japan.

While we strengthen the war-machine of Japan, she endeavors to conquer China, and at the same time prepares her bases in the Western Hemisphere, in Ecuador, in western Mexico, and along the Panama Canal, where she has cut down the cocoa trees on recently-acquired territory for an airbase. We sit back in a strange apathy saying, "No navy can safely cross the ocean and attack us; no country can land a large expeditionary force on foreign and hostile shores." Japan prepares her own bases and her friendly shores to attack from South or Central America, when she has established her Empire on the continent of Asia, commands the Pacific, and is ready with the coercion of 450 millions of enslaved Chinese to take on the rest of the world. It is easy now to cripple the three-power axis. It will be quite a different thing if ever any considerable part of China comes under Japanese control.

China's present morale and her present progress are a thrilling chapter which there is no time to relate. I could read you from my husband's letters of the silk experts bringing 10,000 mulberry seedlings from the coastal region into west China (that is something like 1,500 to 2,000 miles) to start a silk culture which will capture much of Japan's silk trade with India and Burma; of a Chinese friend who moved all his machinery from Shanghai to Kweichow Province to reestablish his cotton mill where it is now supplying one-eighth the needs of the Province; of college students who have trekked more than a thousand miles on foot, following their universities to improvised quarters in "free China"—the leaders of the next generation are not being conscripted for the war of this. Of medical students and national health administrators carrying on under almost insuperable difficulties, copying their few medical texts by mimeograph, having



Chinese artists reproduce their charts and drawings, sleeping in double-decked bunks less comfortable than the factory girls have in Kweiyang—but carrying on. China's present morale is superb.

But, gentlemen, as I look to the Orient in the face of the support for the cash-and-carry proposal of the so-called Pittman Peace Act, I beg to inform you that it would have a psychological effect disastrous to China. China may not be getting great quantities of supplies at present from us. She expects to get a great deal more through Rangoon. (You must have noticed in the Sunday papers, the new aircraft orders placed in this country.) She will get supplies through French Indo-China—shipped on Scandinavian boats, or what-have you. China will find a way if you do not deny her the right. But I dare to say that the psychological effect on China of what she can only interpret as an alignment with Japan, might even break this superb morale which has so far been China's salvation. If by any legislation we pass here, we should do to China what all the vicious bombings of 21 months of incessant warfare have failed to do; that is, break China's morale—then we will bear a burden of guilt for all future time that I dare not contemplate.

As I understand American foreign policy it has always stood for three things:

- (1) The Monroe Doctrine for the Western Hemisphere;
- (2) Disentanglement in Europe;
- (3) The Open Door in China.

What support have we in the country for insisting that the Open Door should be kept open? Six hundred and ninety out of seven hundred newspapers in this country examined editorially, urged an embargo on Japan. Such an embargo has been urged by such organizations as the National Board of the Y. W. C. A., the American Association of University Women, the General Federation of Women's Clubs, the National Federation of Business and Professional Women's Clubs, the National League of Women Voters, the National W. C. T. U., the National Council of Jewish Women, the American Youth Congress, the National Trade Union League, the C. I. O., the recent Gallup poll. Representatives of a number of the organizations referred to have appeared before this committee.

Congressman Coffee, of the State of Washington, said—as reported in the Congressional Record of February 20th:

In advocating an embargo of aggressors I am following good precedent. All save one of the peace organizations of the United States advocate this viewpoint. In insisting upon this attitude toward Japan, I am heeding the precepts of every Republican Secretary of State for 40 years.

He added:

Twenty-five years ago, international bankers fomented sentiment for war. Today no one advocates war, but a clarion voice is rising in increasing volume from the throats of millions, demanding that we stop sending scrap iron to Japan, where it will be made into machine guns, insisting that we no longer stand aloof incurring the hatred of the entire world, but take our proper place in it, lest we be engulfed and destroyed.

"Nothing from Japan; nothing to Japan!" would end the war in China very quickly. With increasing momentum and cumulative effect, the American people are expressing their will as regards the first. "Let American logs defeat Japanese arms" would be a good slogan for them. Japan must sell silk if she buys scrap iron, and she

can sell enough of it nowhere else. What, I ask of you, gentlemen, is to make the second premise a fact? How? By the Thomas amendment, if you will. By repeal, removing the strait jacket from the administration, if you prefer. By action under the tariff act similar to the 25-percent curtailment duties on German goods, if preferable. Certainly Japan is discriminating against our goods and subsidizing her trade with this country. By even the Pittman cash-and-carry amendment (I say it with reservations), provided it is made clear that the Far Eastern situation will be dealt with separately—and I would say, first. More satisfactory would be such an inclusion of the Coffee bill in the Pittman amendment, as to satisfy your constituents that supplies will be withheld from Japan. The legislative process is yours. The principle is the important thing. The mandate of the people that this traffic with Japan must stop is clear. These petitions signed by sincere and earnest people from my State indicate the feeling on the Pacific coast.

I will be turning them over to the various Congressmen whose districts they represent—175,000 signatures to the same petition in New York add their emphasis from the opposite side of the country.

The American people want something done about this infamous traffic which makes us a partner with Japan in this attempt to destroy China, and they will continue to make their voice heard until you act. Neutrality? As impossible as calling black, white; or night, day. Participation in Japan's war guilt? No longer. Go to war in the Orient? Preposterous. China has more manpower than anything else. America's self-defense and best interests and moral responsibility simply require that we stop helping Japan.

Mr. BLOOM. Are there any questions?

How long have you been in the Orient?

Mrs. FITCH. I have only been there 20 years, but my family has been there much longer. I have been back nearly a year—I hope now that this summer I can return. My problem has been my two younger boys and I think perhaps now, with all of these new airplanes ordered in America, that it will be safe in west China for the boys. My husband is in Chungking.

Mr. BLOOM. What does he do there?

Mrs. FITCH. He is a Y. M. C. A. secretary, and he was loaned for the safety zone in Nanking, and he stayed through the siege, when the others went out on the *Panay*. There were 16 Americans who stayed, and he was in charge of the safety zone, and stayed through several months of the occupation, and now he is in west China, and is doing war emergency work under the "Y"—the sort of thing that the "Y" did overseas in the World War, but I think a better job of it.

Mr. BLOOM. Both of your children were born in China?

Mrs. FITCH. All but one of the six. There are two that are too small to go back into air raids, I think.

Mr. FORD. Mrs. Fitch, how do you people go about getting signings to these petitions? I do not know whether any of them are from my district or not, but are the signers of these petitions informed as to the facts like you seem to be informed, or do they just sign something that is presented to them?

Mrs. FITCH. I think that they are all informed people. Because they are from my part of California, they are nearly all people who have heard me speak on China and after the meetings sign them.

Mr. FORD. You have advocated the signing of them?

Mrs. FITCH. And all of the ministers in the leading churches in Pasadena put them at the entrances when they knew I was coming to Washington, and the people signed them.

Mr. CHIPERFIELD. From what the chairman said, I do not want to have it thought that my views or sentiments are not with China, but let us get away from that for a moment, and regardless of our views or sympathies toward China, and taking into consideration the strong case made out by the witness, if her policy was to be carried on to its logical conclusion, would that mean that wherever we found an aggressor nation attacking, say a helpless nation, that we should adopt the same policy in those cases which in a sense might lead us to become almost a policeman for the world, by placing economic sanctions and perhaps restrictions against trade with those countries, and so on—that might, as I see it, increase the risk of us becoming involved in war.

Mrs. FITCH. On the contrary, Mr. Congressman, I think that it would need to be done only once or twice before aggressors would hesitate before they go to war.

Mr. CHIPERFIELD. What I am trying to get at is this: This case between Japan and China lends itself remarkably to the situation which you advocate. I have in mind other situations that you could conceive of possibly happening that might make it such that if we did the same thing in those cases that they might say, "All right, if you are going to put those kinds of restrictions on us, we might as well have a show-down, and let us go to war about it?"

Mrs. FITCH. I consider that they are restrictions on our own people and not on the other country, and I think I am consistent enough to go straight through and say that if France, which we call a democracy, should start to settle difficulties with any other country by recourse to war, which is the thing that we have signed treaties about, that we would withhold our trade from her. I am making no distinction between democracies, and other ideologies, but we have all decided that we would not go to war to settle our difficulties, and there is no other country that has the same economic strength to prevent wars, or to stop them, that our country has.

Mr. JOHNSON. The Thomas amendment, which you endorse, does not invoke it against all countries, but leaves it to the President, and also a vote of Congress, as to whether or not it should be applied in any specific case, and under the law if it were passed it would not be effective unless both the President and Congress had voted to apply it in that individual instance.

Mrs. FITCH. As I understand, it does not need to take a declaration of war, but war declared or undeclared, when that begins, the embargo on both nations goes on at once, automatically, and then the President goes before Congress and says one nation has not broken the treaties, and asks to have the embargo lifted, in whole or in part.

Mr. JOHNSON. And the Congress says the facts of that particular case are such as to justify its being lifted.

Mrs. FITCH. I think the principle is right, but I understand that politically it has not much chance; that is why I tried to suggest other ways of getting at the same thing.

Mr. KEE. You mentioned several alternate actions which you said would be satisfactory, and which would probably obtain the result at

which you are aiming, that is the Thomas resolution, I believe you named first, and the Coffee resolution, and even repeal, and ultimately named the Pittman bill, provided we added something to it.

Mrs. FITCH. Yes, sir.

Mr. KEE. Which of those actions would you deem the best, the most efficient?

Mrs. FITCH. Of course, I like best of all the principle that is involved in the Thomas amendment, but as I say, if that has politically no future, then I would like to see something fixed up about the one that is likely to go through.

Mr. KEE. You consider that amendment sufficiently flexible to meet the conditions as they arise, the different conditions?

Mrs. FITCH. One at a time, you see.

Mr. EATON. I think that this is one of the most statesmanlike statements that has been made before this or any other committee.

Mrs. FITCH. Thank you, Doctor.

Mr. EATON. The basis of the lady's argument is that the future of the world and especially the future of America is intimately wrapped up in the destinies of China, and the destinies of China now are hanging in the balance with reference to the invasion by Japan, with our help to Japan.

You say, in one place here, that the military clique in Japan must be destroyed. Have you any notion how to go about doing that?

Mrs. FITCH. Yes; I mean I think that it is quite simple if we withdraw our help, that war machine collapses, and then the people are through with them.

Mr. EATON. If the war machine collapsed in Japan, then the people would once more take charge of their own government?

Mrs. FITCH. Yes. I do not want to be dogmatic as someone suggested here, but I think that it is almost a sure result. I named those groups in Japan, that will be the basis of a democratic government once that military crowd is overthrown.

Mr. ALLEN. In connection with Mr. Eaton's question, Mrs. Fitch, it will become a life and death struggle between the Japanese military machine and the people. Are you sure that the Japanese military machine, with supplies cut off from America, would not turn their eyes to the Dutch East Indies, the Straits colonies, and perhaps to India, and make an attack against those British possessions?

Mrs. FITCH. They would like to, but they cannot move far without our help, you see, and there were indications in what is in the paper today or yesterday, that they do not have enough scrap iron now, and some Congressmen have thought that they must have stored up a good deal. They have been buying tremendous amounts in this country, and they are just now going to take up all of the metal mail boxes throughout the whole country and substitute wooden boxes or something, because they need that metal. They have not enough scrap iron right now; and if we cut off the high-test gas, they cannot move their airplanes.

Mr. ALLEN. I think that that is a good answer; and now may I ask one more question: Do you feel that Japan could hold onto the northern provinces of China, with our help withdrawn, or our economic help withdrawn?

Mrs. FITCH. No, because the Chinese would not stop fighting until they are out of the country entirely.

MR. ALLEN. You believe that the Chinese could drive the Japanese out of the territory they have already conquered?

MRS. FITCH. Once our help is withdrawn, yes; because now while they hold cities, and block railroad lines, they hold nothing of the country in between. The people are tremendously loyal to General Chiang Kai-shek, and in the northern provinces which run something like 768 counties, the Japanese hold 34 or 37. I have forgotten the figures, and the Chinese Government is functioning in all of the rest of the 768 counties in North China.

When the Japanese are trying to put their reserve bank notes in there, the people will not cooperate; they will not use them, and when they expect them to plant cotton, so that they will get cotton surplus, they are planting less than ever, only just barely enough for their own needs, so that there will be no surplus.

MR. ALLEN. Now, carrying it through just a moment more, the economic pressure within Japan, which drove her into China, will still be there if the Chinese succeeded in driving the Japanese out of North China. Then what is going to happen?

MRS. FITCH. Well, of course the campaign which was supposed to be an incident and be all over in 6 months at the longest, is proving to be the economic and financial ruin of Japan itself, so that the sooner it is over, the sooner the people will have a chance to recover. They are taking now from this country very little, almost nothing, except what can be fed into the maw of the war machine, and the exporters and business people of Japan want to get to their trading again. Does that answer your question, or did I misunderstand it?

MR. ALLEN. Well, not entirely. The Japanese people are not going to sit passively by and starve economically.

MRS. FITCH. Oh, no.

MR. ALLEN. It is bound to break out in some other front, it seems to me, later on, if the Chinese succeed in driving Japan back.

MRS. FITCH. I think that it would, Mr. Allen, had there been any justification for the move in the first place.

MR. ALLEN. You do not feel that there was one?

MRS. FITCH. One reason was the overpopulation, but there are northern islands of Japan, like Hokkaido, where the governor has implored the Tokyo Government to help the colonization into those sparsely populated islands, and the Japanese people do not like them because the weather is cold—for the same reason they do not like Manchuria.

So that they have islands to spread out on; it is not the overpopulation theory; that is not justified. What she is trying to get by force of arms, in China, she could get much more happily by trade with the rest of the world, or with China.

MR. ALLEN. That is what I wanted to get.

MR. FISH. Mr. Chairman, I am very sympathetic with the remarks the lady made, and I cannot agree, however, with her general premise. I do not believe that if we stop selling war material or anything else to Japan that it would have a very material effect at this late date. It might have originally, but I think that she can buy almost everything from some other country. What she buys mostly from us are cotton and oil and scrap iron. She can buy oil and cotton from other countries, whether the oil is from the Dutch West Indies or whether she buys it from Venezuela or Mexico or other countries, and cotton she can get at half a dozen countries, so I do not think it would make

much difference except for scrap iron, and I have had a bill in here for 6 months to prohibit the shipment of scrap iron to both China and Japan. I put it that way because China, as far as I know, is not buying any scrap iron from us and Japan is buying most of it.

That does not bring in the aggressor-nation difficulties which will be fought over no matter what happens, if it is in any bill, but that bill is pending.

I have always claimed that it should be acted on independently, and not wait until some neutrality bill—we might not even have a neutrality bill.

What would you think of a bill put through immediately to prevent the shipment of scrap iron to both Japan and China?

Mrs. FITCH. If you do not mind, I would like to take up your first question first.

Mr. FISH. All right.

Mrs. FITCH. That she could buy these things from other markets.

What would she buy them with? She has no more credit and she has to depend now on her foreign trade. She has shipped out of the country \$400,000,000 of cash credits that she had at the beginning of the war, and has lowered her gold reserves dangerously, to get the money, and she has floated loans that have not been altogether taken up by the people or the banks.

She does not have the money to buy at any higher prices and she cannot buy even from America if we do not buy her silk.

Mr. FISH. Well, we are not the only market for Japan, for Japan trades all over the world, and can trade either through barter, if she cannot do it through exchange, for her rayon and silk goods, and she trades with a great many other nations, she does an enormous trade in South America now, increasing all the time, and she does a large trade in India, and so on.

Mrs. FITCH. I would be glad to send you, since we will not have the time to go into it here, certain things that will indicate that the trade with us is by far the most important.

Mr. FISH. I know all of the figures. I have gone into it extensively.

Mrs. FITCH. And that if they were successful now and had money, she could shift her markets, but she is bogged down in China right now and she cannot possibly shift her markets to higher-priced markets; in fact, I doubt if she could shift them at the same prices fast enough to save her.

Mr. BLOOM. On that point, would you kindly read from this article, showing the reduction in the exporting of scrap iron last year, against the year before—and I think it is up on top.

Mrs. FITCH. In most discussions of Japanese trade the subject of scrap iron and other nonferrous and metal forms are emphasized, but this trade is going down, as some figures on American exports to Japan show.

Pig iron, 1937, 409 plus million tons; 1938, 316,000,000 tons.

I will just read round numbers:

	1937	1938
Iron and steel scrap..... tons.....	1,612,000	1,382,000
Steel ingots, tin plate, billets, slabs, and sheet bars..... do.....	204,000	91,000
Wire rods..... pounds.....	68,000,000	24,000,000
Iron and steel plates..... tons.....	228,000,000	26,000,000
Tin plate and terneplate..... pounds.....	95,000,000	28,000,000

Most of the emphasis in the anti-Japanese trade testimony presented to Congress and so forth is on this aspect of it.

Mr. BLOOM. That report, and I read it yesterday, I will state for the benefit of the committee, was such a surprise to me that I have asked the Department to give a report because it shows that there is a considerable reduction in the export of these things (as we have heard before the committee) last year, from the year before.

Mr. ARNOLD. Why that reduction?

Mr. BLOOM. I have asked for that report. It was in yesterday's paper.

Mrs. FITCH. That is, from the United States.

Mr. BLOOM. It is by Blair Holden, first of a series, "Decline of Trade with the United States Causes Concern in Japan." It is quite a lengthy statement; I read it yesterday, and I was very much surprised so I asked the Department to give me a report on it.

Mrs. FITCH. We could end the war just as certainly, I think, if we could make the boycott in this country effective, just as I said, "American legs could defeat Japanese arms," but it is a harder problem to get all of the millions in this country to be consistent about that than to get Congress to stop the flow of these materials.

Mr. FISH. Have you told the committee that Japan in Manchukuo, and Northern China, has seized vast supplies of iron ore, of which China has abundant supplies, and now controls them, and that is one of the reasons that they are not buying as much scrap iron as they bought before?

Mrs. FITCH. No, I do not think that is so.

Mr. FISH. They are still buying it, though.

Mrs. FITCH. I do not think that that is the reason, because she has not been able to utilize the resources to any great extent yet. Manchukuo is costing her more than she is getting out of it still, as figures show. I would say that the real reason for the decline is the lack of cash to buy.

Mr. JOHNSON. With regard to the colloquy between you and Mr. Fish, I was interested in the statement of Mr. Fish, that China bought very little scrap iron from us, and I wondered if you knew, or had any information with reference to that. I know nothing about the facts, and I want to know whether or not you have any knowledge with reference to our shipments of scrap iron to China, or does this statement as was read, give any information with reference to such shipments?

Mrs. FITCH. I think China's orders from this country are practically all finished products, because she does not have the munitions factories.

Mr. JOHNSON. She does not have any use for scrap iron?

Mrs. FITCH. No, sir.

Mr. FISH. That is the reason I put it in the bill, so that it would affect just scrap iron going to Japan, and I do not know whether anyone has brought it out, and I think you would be just the person to testify, and I am sure that you know, that the Congress put through a neutrality bill which said that no arms and munitions or implements of war should be shipped to any nations, belligerent nations, or when a state of war exists.

Mrs. FITCH. But it said nothing about the raw materials, which are the important things.

Mr. FISH. It included arms and ammunitions, which would include airplanes, and that was passed by the Congress by an overwhelming vote, and it did not say anything about when a declaration of war existed, it said when a "state of war" existed.

Mrs. FITCH. It said when the President finds that a state of war exists.

Mr. FISH. And when the state of war exists, it is not a question of whether or not the President finds it to exist, it is a matter of fact, and I have never met anyone who said that a state of war did not exist in China.

Mrs. FITCH. We were awfully glad that the President did not find it.

Mr. FISH. But it is not a question of whether the President finds it. If a state of war exists, it is the law of Congress, and it is not the fault of the Congress that arms and ammunitions or implements of war went to Japan.

Mrs. FITCH. That provision is in the law.

Mr. KEE. It is in the law that the President finds that the state of war exists.

Mr. ARNOLD. Are any figures available as to the extent of the extractions taken out of conquered territory by Japan, such as iron ore, and things of that sort, that are necessary for the conduct of the war?

Mrs. FITCH. Not that I have at hand, anyway. This is only an impression, I could not answer that dogmatically, but my impression is that they have not yet been able to consolidate to the extent of being able to utilize those resources.

Mr. ARNOLD. What actuated that question, recently I saw in the news review an item which demonstrated the extraction of iron ore and the use of the Chinese in forced labor under Japanese guards, in that restricted territory, and I wondered if any information was available as to the extent of their extractions there.

Mrs. FITCH. That may be true in some local points, but I have no figures on it.

Mr. KEE. It is a matter that is immaterial to the question that Mr. Fish brought up, but does not the law provide or give the President the discretion in the matter, and states that when he finds a state of war exists, he may do so?

Mrs. FITCH. It is a technicality, of course, and I agree with Mrs. Rogers that it makes the whole law a farce, but we were nevertheless, in China, extremely grateful to him that he did not find that a state of war existed, because it would have meant that China could not get the finished products, and Japan does not need the finished products as long as she can get the raw materials.

Mr. JOHNSON. The failure to invoke the neutrality law against China and Japan then has not hurt China, it was a help?

Mrs. FITCH. Yes; and we felt that that was why he did not find a state of war to exist, as it would not have carried out the will of the American people in regard to that situation.

Mr. ARNOLD. If we should apply our neutrality on all embargoes, do you believe that Japan could turn to other countries and have those needs supplied?

Mrs. FITCH. No; that was my answer before, that because she is so short of cash credits, she cannot find other markets, she cannot establish other markets in time to save here campaign in China.



She is bogged down now, and she does not have the money to buy as much as she needs now. That is illustrated by the scrapping of her metal mail boxes in Japan.

Mr. FISH. Can you tell me what she does buy now outside of oil, which she could get in other countries? What does she buy?

Mrs. FITCH. Those figures are in my statement, if you have not a copy, I will be glad to read them.

Mr. FISH. Not in the past; I mean now.

Mrs. FITCH. In this article, also, I think that that is given. Do you have a copy of my statement of this morning?

Mr. FISH. Yes; I have it available.

Mrs. FITCH. She is still buying every bit of her high-test gasoline from us, so if you put in a bill to stop scrap iron, do add refined gasoline, because she has no facilities in Japan for refining it.

Mr. FISH. That would be a good amendment.

Mrs. FITCH. That is the thing that has outraged the world more than anything else, the incessant and indiscriminate bombings.

Mr. FISH. I think what you say would have been very effective in the beginning, but she has recently established refineries of her own, for high-test gasoline.

Mrs. FITCH. No, Mr. Congressman; she does not have such.

Mr. FISH. That is what I have been informed.

Mr. BLOOM. Just at this point, with reference to the question asked by Mr. Fish, regarding his bill H. R. 3419,<sup>1</sup> a letter addressed on February 13, 1939, a copy of which went to Mr. Fish, wherein the Secretary of State wrote to Chairman McReynolds, as follows:

MY DEAR MR. McREYNOLDS: I refer to your letter of January 31, 1939, in which you requested a report on H. R. 3419 entitled "A bill to prohibit the exportation of pig iron, scrap iron, and scrap steel to China and Japan."

Since H. R. 3419 concerns the neutrality policy of the United States, I suggest that you may consider it advisable to postpone consideration of that bill until such time as the Congress may find it convenient to consider our neutrality policy in all its aspects.

Sincerely yours,

CORDELL HULL.

Mr. FISH. Would you say that scrap iron and airplanes are the two essential things that we ought to stop?

Mrs. FITCH. I think that they are probably the two most important, but why stop at that? If you are going to cut off the Tokyo arm of the Rome-Berlin-Tokyo axis, why not cut it off?

Mr. FISH. I did not know that we were taking part in that. That is an entirely different issue.

Mrs. FITCH. That is to America's future, a matter of immediate concern.

Mr. FISH. Do you mean to say that we should have an embargo against Germany and against Hungary, and against Spain, and Italy, and about 60 other countries?

Mrs. FITCH. As far as I am concerned, we would refuse to trade with every nation the moment that it had recourse to war to settle its difficulties. They would be violating a treaty with us.

Mr. RICHARDS. I just wanted to say that I am very sympathetic with the position that you have taken, and the Chinese people, too, but right along the line that Mr. Fish suggested, you see there are mass movements of people all over the world, and dictators and many

<sup>1</sup> See p. 626.

other military people governing countries, imposing their will upon weaker nations.

Now, the contentions that you made, to follow it to its logical conclusion, is the thing that worries me, because the primary object, or our primary object is to keep the United States out of war. It would be reasonable to suppose, would it not, that if we should apply the very action that you suggested we apply here, we should apply that to any other nation on the face of the earth, if circumstances are anywhere near the same. In other words, that should be the policy of this country to help out the weaker nations by embargoes on materials?

Mrs. FITCH. No; it does not matter whether they are weak or strong, it is whether they have recourse to war in violation of the treaties signed with us.

Mr. RICHARDS. You predicate your argument entirely on the Thomas proposal?

Mrs. FITCH. That has the principle in it, but of course as I said, I would rather see the whole thing repealed than have this strait-jacket on the administration.

Mr. RICHARDS. I believe that you did go further, and say that you believed that if we would apply this embargo and if it would be successful, that we would not have to apply it somewhere else, because the lesson would be so great, that the nations would not try to go to war?

Mrs. FITCH. I do not think that I said that we would not have to apply it elsewhere, but I think that it would prevent wars; but I should think that we would use it every time that we wanted to.

Mr. RICHARDS. What is your idea about this? Suppose that the embargo fails in the purpose expressed by you. Would you contend that we ought to go still further and use force?

Mrs. FITCH. Why should we send soldiers over to China? China has more manpower than anything else, and she does not want them.

Mr. RICHARDS. What about war materials, what about guns and things like that?

Mrs. FITCH. Or airplanes. I would help this nation that is fighting so bravely to defend her own country, until the enemy had left her country, and then I would not follow any further.

Mr. RICHARDS. Then when we are convinced that one nation is imposing its will on an aggressor, we should go in one way or the other, to help settle that dispute?

Mrs. FITCH. I would not put it that way, Mr. Congressman, because any difficulties between two nations somewhere on the face of the earth is no concern of ours unless they are violating a treaty of which we are a signatory. Then it is our concern, and we have to stand for law and order in the world.

Mr. RICHARDS. How about violating contracts, would you say that any country which violates a contract would be treated in the same way?

Mrs. FITCH. No; I would not go that far. I would not feel that I was an authority on that at all. It is not a question of contracts, to my mind, it is a question of a decision on the part of the nine powers that we would not use war as the method of settling disputes, and may I add to the record this statement. Will you pass this around, please? I meant to have this incorporated in my formal statement.

This is the statement of a high Japanese official, and it is the way he summed up our foreign policy.

We Japanese have no fear of any change in America's foreign policy for Americans have no real morality but only pious phrases. What Americans have means so much more to them than what they are, that they will continue to sell to Japan whatever Japan has the money to pay for, regardless of what Japan does with it after she gets it.

I would hate to think that Japan had sized us up correctly.

Mr. RICHARDS. Who said that?

Mrs. FITCH. A high Japanese official.

Mr. BURGIN. What, in your opinion, would be the policy of China should she win the war? Would she abandon her ancient policy, and become a militaristic people?

Mrs. FITCH. It is inconceivable to me. And I take it that there is no need to labor, what shall I say, the inaccuracy of the early testimony this morning. I have respect for age, but there are many people in China who have no conception of what the new China is like. They have no idea of the democracy that has already been established. What is the idea of saying that China can never become a democracy, when she already has become one, and when she has a government that has been making more progress in the last 5 years than any other government probably on the face of the earth.

Mr. BLOOM. Are there any further questions?

The committee, I know, Mrs. Fitch, is very highly honored in having you here; and you have made a wonderful statement, we thank you very much.

Mrs. FITCH. I will leave these few books which may interest some of you, and pamphlets, and I will turn these over to the respective Congressmen whose districts they came from.

Mr. BURGIN. Are they all from California?

Mrs. FITCH. Yes; and just a corner of California. If I could have multiplied myself, we would have had more.

I also have some copies of the North China Daily News here. You can hardly pick up any copy of any of these newspapers without finding some extremely interesting information, like this quotation here, which says that 44 percent of the population in Nanking is now destitute.

#### STATEMENT BY HON. LOUIS LUDLOW, REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

In considering neutrality legislation I take it that the first and most important question we should ask ourselves is, "How deeply and sincerely and earnestly do we desire to keep America out of war?"

It is one thing if we are just benevolently disposed and altruistically inclined and would like to avoid war, provided it is not too inconvenient to do so and does not impinge too much upon our pocketbooks.

It is another thing if we are really determined to save America from the horrors of another war and have an inflexible will and an iron purpose to accomplish that end, even to the extent of being willing to sacrifice the profits of commerce with belligerents to keep America at peace with the world.

Unfortunately, there are too many people tied up with various interests who would like to see America kept out of war, with a reserva-

tion, the "but" being, "But, of course, we would be foolish to turn our backs on the trade and financial advantages that will come to us when other nations get to fighting."

The person who takes that view of our neutrality reminds me of the tightwad at a charity meeting who closed a resounding speech, pouring out sympathy for the underprivileged and unfortunate, by proposing "three cheers for the poor," but failed to drop anything in the plate when it was passed around.

The contribution to the cause of peace of the type of neutrality advocate referred to is just as worthless as that flamboyant orator's contribution was to the cause of charity.

We may as well make up our minds right now that we will never have any guaranty of isolation from war unless we are willing to pay for it. What is the first fundamental proposition to be considered in writing neutrality legislation? We are not going to have freedom from war unless we are willing to give up the trade profits that drag us into war. We cannot have our cake and eat it, too. We can, in my opinion, have a very great measure of insurance from war if we make up our minds now that we will forego the captivating trade opportunities that first lure, and then betray us when war comes.

After all, is it not better to give up millions in war profits, if need be, without the surrender of a single life, rather than go into a war that will cost billions in money, the deaths of untold numbers of our fine young men, and that may mean the destruction of our free Government? Surely it does not require the vision of a seer to see the best end of that bargain.

There are several outstanding neutrality proposals vignettied on the legislative calendar at the present time and a brief discussion of each of them may be in order. First, I would mention the bill of Senator Thomas of Utah, because I think it is the most unreasonable of all and the one that should be most quickly disposed of. His bill, in substance, would permit the President to name the aggressor in a war between two or more foreign countries and to apply embargoes in accordance with his judgment or desires. This bill is unthinkable.

It would take the war power right out of the hands of Congress and place it in the hands of the President, who already has too much power in respect to making war. The power to fix the guilt of a foreign nation is too dangerous a power to exercise unless we are ready to follow it up immediately with our battalions and battleships. The Thomas bill would open a sure and quick way to involve the United States in war and it is a grotesque misnomer to call it a neutrality bill. It should be called "a bill to put the United States into every war that may arise in the future."

Then there is the bill of Senator Pittman, of Nevada, chairman of the Committee on Foreign Relations, which, to my way of thinking, is almost as bad as the Thomas bill.

To be sure, the Pittman bill does not make the mistake of trying to name the aggressor, and on its face it does appear to be impartial, but its impartiality is only superficial. It opens up unrestricted trade to belligerents on a "cash-and-carry basis," the title to the goods to pass to the purchaser before the goods leave the water's edge. What this bill would do, therefore, would be to make the United States the ally of Great Britain, France, and Japan, because those are the nations that have the ocean-carrying facilities to come to our shores and

get our products. Many Americans sympathize with Great Britain and France, but how many sympathize with Japan, and want to help her in her atrocious and barbarous warfare? The Pittman bill is not a neutrality bill. In fact, it is a very unneutral bill. In framing it I fear the author was influenced by his very well-known and extreme predilection in favor of Britain and France.

A vast trade in war supplies, built up with a belligerent, would be a tremendous force to upset the neutrality of the United States. It would have the power of a million hawasers, pulling America into war on the side of the belligerent, with whom our citizens have these favorable trade relations. It is nothing more nor less than human that the beneficiaries of such trade would bear down upon our Government to protect their enormously profitable business, and all of this would add to the complexities of maintaining a status of neutrality, and would certainly enhance the probability of America becoming involved in war. The Pittman bill would expose American neutrality to too many dangers to be seriously considered.

Another proposal, equally untenable in my opinion, is that of Senator King, of Utah, who proposes to repeal all neutrality legislation outright and to rely upon international law.

The best reply to proponents of this suggestion is that there was no neutrality legislation on the books 20 years ago, but that did not prevent us from being dragged into the World War. Our nationals had their rights of the ocean under international law, and by asserting their rights under the doctrine of the freedom of the seas, we became involved in the World War. A mere laissez-faire attitude of falling back on international law will not keep us out of future wars.

Because I think it is of the highest importance that we shall have real neutrality legislation with teeth in it that will protect America and keep us out of foreign entanglements, I introduced on January 3, the opening day of the present Congress, H. R. 163, of the Seventy-sixth Congress (see p. 626).

If we are sincere, as I am sure 99 percent of the people of our country are, in desiring to erect every safeguard to keep America out of war, here, I believe, is a bill that merits the very closest scrutiny. I am confident it would do more than any other neutrality bill that has been proposed to keep us free of foreign entanglements. On the outbreak of war it would be mandatory under this bill, for the President to issue a proclamation forbidding (1) exports of all kinds, and (2) loans and credits to both or all belligerents.

There are many supplies and manufactured articles, not strictly munitions, which a nation must have to carry on a war, and the export of these articles, as well as arms and ammunition, to belligerents, would be forbidden by my resolution. It is a notorious fact that enormous quantities of scrap iron furnished by the United States to Japan have been a great factor in enabling that power to carry on its unconscionable and atrocious warfare in China.

Are we willing to pay the price of peace which my bill requires? That is a question for the Foreign Affairs Committee and the Congress to consider. As I stated at the beginning, we cannot have our cake and eat it, too. We cannot have peace and freedom from foreign imbroglíos unless we are willing to do what is necessary to obtain that peace and freedom.

In conclusion I hope that, with proper modesty, I may quote briefly from an editorial printed a few days ago in the Fort Wayne News-Sentinel, one of the leading newspapers of our State, a newspaper which I respect highly, though it is not of my political faith. The editorial says in part:

One and only one bill before the Congress at this time (or more accurately speaking) before the House Committee on Foreign Affairs, has even a reasonable probability, if enacted, of assuring American neutrality in a foreign war. That bill (H. R. 163) was introduced last January 3 by Representative Louis Ludlow, Democrat, of Indiana.

If it is neutrality the American people want, then they should by all means demand that their Congress enact H. R. 163. No other pending measure so simply, clearly, and straightforwardly provides for American neutrality, makes a policy of neutrality mandatory upon the people and their President, and thereby lessens the risks of all that war must mean.

(Whereupon at 12:30 o'clock the committee recessed to reconvene on the following morning, at 10 a. m., April 25, 1939.)

# AMERICAN NEUTRALITY POLICY

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TUESDAY, APRIL 25, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding, for further consideration of bills to amend the Neutrality Act.

Mr. BLOOM. The committee will please come to order.

The first witness this morning is Prof. Harold J. Tobin, assistant professor of political science, Dartmouth College, Hanover, N. H., and a favorite constituent of our fellow member, Mr. Stearns. Mr. Tobin, the committee will be pleased to hear you.

## STATEMENT OF HAROLD J. TOBIN, PROFESSOR OF POLITICAL SCIENCE, DARTMOUTH COLLEGE, HANOVER, N. H.

Mr. TOBIN. I expect to confine what I have to say to a discussion of the effect of existing and proposed neutrality legislation on certain aspects of our defense policies, which seem sufficiently important to be considered when new legislation is drafted. My remarks are based on the assumption that foreign nations will act on the principle that any neutrality legislation is definitely to be applied to reduce possible contacts between Americans and belligerents, except in the case of the Thomas amendment, which, if enacted, will cause the United States itself to judge whether those contacts shall be broken with both belligerents or not.

The first of the points to be considered is the necessity of assuring possession of an adequate supply of strategic materials for our own use in time of war. A general European war would naturally increase the feeling that we should have an adequate supply, due to the possibility of our being drawn in. Our ships would drive into the very zones we wish to avoid in search of these supplies. The list of strategic materials is familiar to all of you; I want merely to indicate situations when, due to neutrality legislation, we might have difficulty in maintaining an essential supply.

Let us suppose, for example, that war breaks out involving Great Britain, or Japan, or Italy, and the present act is applied. We would have to shut off the supply of arms, munitions, and airplanes; American ships would be forbidden to carry to the belligerents these or other articles placed on the prohibited list; nothing could be sold except for cash; no loan could be floated here. These measures would seriously affect Great Britain, perhaps very seriously and immediately in the matter of airplanes. She would not be without redress, however.

Within her empire are found the principal supplies of at least five of the strategic materials essential to our own defense; tin, rubber, sheet mica, chromium, and nickel. The last two are found in her dominions, and if the dominions maintained their neutrality we would presumably not apply the act to them. The other three materials are found, however, in the British colonies whose actions are determined by Great Britain alone and the threat by Great Britain of an embargo on shipments to America of these items would be embarrassing, and perhaps not unjustifiable in a life and death struggle. The dangers from this retaliatory embargo are somewhat mitigated by the fact that by any annex to the trade agreement the parties undertake to give sympathetic consideration to each other's raw material needs, and not to cut off the supply of such material without notice and opportunity for a hearing. But at best this could result only in a deal at the expense of the full application of the act. Italy, with the cooperation of Spain, can practically deprive us of mercury. A far eastern war, if the act were applied, might be used by Japan to deprive us of silk, and by control of China's exports, of antimony and tungsten also.

Problems of greater importance, however, are involved in our relations with the Latin American states. A provision of the present neutrality law exempts them from its operation when they are engaged in war against a non-American state. But this exemption does not apply in case of war among themselves, or in case of civil war within any one of them. The United States does not at this time wish to encourage the development of closer economic or political ties between Latin-American and non-American states at its own expense, yet in case of either type of war the operation of the present law would drive them to strengthening their overseas ties. Again, we would have to shut off the supply of arms, ammunition, and airplanes; American ships could carry them no articles on the prohibited list; nothing could be sold except for cash; no loans could be floated here, even at such a time when they were most needed.

A Latin-American state, attempting to suppress a Fascist rebellion, might find itself in the position of the Spanish Loyalists, so far as American supplies are concerned; but it is unlikely that European states would refuse them. The suggested program permitting Latin-American states to build ships in American yards would strike a serious snag. The influence of the United States in the development of aviation in these countries would be similarly affected. We have recently made a trade agreement with Brazil which provided that we will make a gold loan on application. If Brazil finds herself engaged in war with another Latin-American state or is attempting to suppress a revolution, this credit under the present act and barring any other treaty provision would be refused.

The changes offered under the Thomas amendment and the Pittman bill are only partial remedies for the difficulties mentioned. The first paragraph of the Thomas amendment prevents the export on any vessels of any items, a provision further restricting the possible aid we might render a Latin-American belligerent. The second paragraph permits a distinction in applying the act between belligerents, but makes none between the parties in civil strife. But States can not always know in advance whether they will fall in the category of treaty violators or not, and it will be much safer therefore for them to make their commercial and financial connections elsewhere, where there will be less uncertainty.



The Pittman bill makes no differentiation between belligerents and calls for no action in case of civil war, but it is much more rigid in its provisions for prevention of any commercial or financial intercourse with belligerents, and would be subject to the same objections on this score as the present legislation, and to a greater degree. Section 3 (a) of this bill gives the President power to prevent American vessels from proceeding through areas of combat operations. The application of this provision to the East Indies—a likely area of hostilities should war occur in the Far East—would make it impossible for American ships to transport to the United States such essential supplies as rubber and tin.

The simplest solution for the strategic materials problem appears to be the enactment of such stock pile legislation as that now before this House, which frees us temporarily at least from the need to carry on commerce in these materials in time of overseas war at almost any risk.

Perhaps the simplest way to meet the objections concerning Latin America in drafting neutrality legislation would be to exempt that area completely from the application of its provisions; we have already done so in the case of war between a Latin-American and a non-American state. If this were done, the act of 1922 permitting Executive discretion in placing embargoes on arms and ammunition would permit our favoring the legitimate government against a rebel movement, or vice versa. In case of international war in the area, the traditional rules of international law would apply, and we would have to treat the belligerents alike. If this solution is not satisfactory, we might consider legislation specially adapted to our relations with these States, a problem which should be simpler to solve than that involved in planning a policy to meet any situation arising anywhere in the world.

It is difficult sometimes to keep in mind that neutrality is the condition of a State which is not a belligerent, and that being a neutral requires identical treatment for opposing belligerents. The present act was intended to do this, with the exception favoring Latin-American states at war with non-American states. If such exceptions in the Latin-American field are to be made, it is perhaps wise to give the matter of policy deliberate thought, and make our law conform to our policy. If, as under the Thomas amendment, we are to undertake the task of an international judge, it would be wise to put ourselves in as strong a position as possible concerning our war supplies, and eliminate as far as possible the need to send American ships for vital materials in time of war.

Mr. BLOOM. Are there any questions?

Mr. VORYS. I did not get, Professor, just what form of neutrality law you would recommend.

Mr. TOBIN. Well, you did not get it because I precisely ducked that question.

Mr. VORYS. That is the question that we want to get the answer to.

Mr. TOBIN. I can give you some ideas concerning this, as to what seems to me to be the risks in almost any kind of legislation which could be put through. The great difficulty, as I see it now, is the fact that the question of policy and law are so badly tangled, it is a good deal like recognition. There is supposed to be a law governing this sort of thing, which I have tried to cover in the last paragraph.

Mr. BLOOM. You mean international law?

Mr. TOBIN. Yes; international law. If international policy is to be substituted for international law, it means that you are legislating policy in a field which I have always understood to be more under the jurisdiction of the Executive than would be possible if such legislation were put in.

Mr. VORYS. How is that?

Mr. TOBIN. If any neutrality legislation is passed, it seems to me that it must be on the basis of policy rather than of law, because we have sufficient law now to meet situations such as have arisen in the past. If legislation is passed, it takes, it seems to me, out of the hands of the Executive, a discretion which is his, at least by constitutional interpretation, if not in the Constitution itself, and makes this policy-forming function performed partially by the legislative branch rather than by the Executive.

Mr. VORYS. Now, you do not mean that, aside from legislation, the President has any power to embargo shipments of exports, do you?

Mr. TOBIN. Well, in the embargo on shipments of exports, he has a certain discretion under the act of 1922 in regard to the Latin-American States.

Mr. BLOOM. Suppose the act were not there?

Mr. TOBIN. No; as far as I know it could not be done.

Mr. VORYS. The President has no power to lay an embargo without legislative authority, has he?

Mr. TOBIN. Not so far as I know. I know of no case.

Mr. VORYS. And he has no power to enforce cash and carry, without legislative authority?

Mr. TOBIN. No; of course not.

Mr. VORYS. Now, any sort of statute is going to be unilateral; it is not going to be an international law, because it is a one-sided affair; a self-denial statute, is it not?

Mr. TOBIN. Yes; that is quite true, so far as it is a self-denial statute.

Mr. VORYS. And insofar as that, the President has not authority to do that without congressional action, has he?

Mr. TOBIN. No; I would not say so.

Mr. VORYS. So that we cannot have any neutrality action or peace action of the self-denial type without legislative action, can we?

Mr. TOBIN. No; I think that you are probably right.

Mr. SHANLEY. As I understand it, the so-called neutrality in your point of view, is an attempt to carve out from the wide field of Presidential powers certain elements that you think ought to be encroached upon. In other words, we took the arms and munitions and implements of war in the simple 1935 act out from under the usages of international law. Of course the President was bound to act in an unbiased way toward both nations, but we deliberately carve that out of his prerogative, so that neutrality in this aspect as it is commonly understood, is really a carving not only of the Presidential power but a carving out of international law.

Mr. TOBIN. Yes; that is precisely the objection that I was going to make, in case I did not make myself clear.

In other words, that is, as soon as the legislative action affects international law, I feel that it is there an encroachment, that is, anything which we do in the form of self-denial which applies equally

to belligerents, is certainly within your power, or certainly within the power of the legislative branch.

Mr. SHANLEY. I notice that you play upon the neutrality of the Dominions. That is rather an intriguing subject, because if we had no law, and Canada was a neutral, as it might be, and as it indicated it would be in the Abyssinian War, how far are we going to restrict our imports and the correlative exports. We know that in the end all of those exports, particularly lethal weapons, are going to a belligerent, the mother country, by transshipment. How far do you interpret our duty there?

Mr. TOBIN. So far as I know, there is no obligation in international law to prevent us sending anything we like to Canada, if Canada is a neutral, regardless of her ultimate disposition of it. Certainly as a practical matter, any opposing belligerent is apt to take retaliatory measures as Germany did in the last war, but as a matter of law, there is no obligation that would prevent us from doing it in the international field. Our domestic laws, as I understand, the present Neutrality Law, would require us not to ship if we knew the destination was an enemy.

Mr. SHANLEY. Under the present act, in the transshipment phrase. Of course, that is just doing away with the continuous voyage doctrine, in that sense.

Mr. TOBIN. Yes, our part of it is on this side of the water instead of the other.

Mr. SHANLEY. How do you feel that the transshipment doctrine affects our national interest?

Mr. TOBIN. I do not see any possibility of enforcing it to begin with. I think that unless you have got enforcing machinery in other countries on a cooperative basis, as we had in the last war, to keep stuff going through Holland to Germany, I do not see how you can enforce it.

Mr. SHANLEY. Of course, dissuasion might enforce it.

Mr. TOBIN. On this side of the water.

Mr. SHANLEY. That would be in seeming violation of international law, though not of the organic act, would it not?

Mr. TOBIN. I consider any self-denying ordinance such as this would be, which applies equally to both belligerents, no infringement on international law.

Mr. SHANLEY. Not an infringement in a sense, but making it a paradox. In international law there is no dissuasion at all, and here we are using it through Executive power.

Mr. TOBIN. I do not interpret international law as saying that you cannot dissuade your own nationals from taking any action that you want, providing you apply it to both sides.

Mr. SHANLEY. Where it is unequal there?

Mr. TOBIN. Even if the effect is unequal, I cannot say that there is any violation of law.

Mr. SHANLEY. That is still the German insistence on the arms and ammunitions. Now, how far can we go in imposing or placing into our organic law, infringements on international law, and still preserve our neutrality?

Mr. TOBIN. I think that that is a matter of the interpretation which is put on the action by the belligerents. I think it is also a question of how long the war continues. The patience of belligerents

gets shorter, the longer the war goes on. I do not think that it is a matter that can be determined on the basis of law alone. Of course, that is the great weakness of any of the rules of international law that the interpretation does not stand up very well, if the application affects the interests of important countries very seriously.

Mr. SHANLEY. Suppose we eliminate the present Neutrality Act and go back to the pre-1935 status which would be preneutrality, as we understand it, what do you think would be the effect then?

Mr. TOBIN. If the course of the war followed the course of the last war, I think very much the same results would follow.

Mr. SHANLEY. Supposing there is no war, what would be the effect on other nations?

Mr. TOBIN. Political effect?

Mr. SHANLEY. Political effect, yes.

Mr. TOBIN. Well, it is obvious in that case, that the nation which controls the seas will derive the benefit of the laws.

Mr. SHANLEY. Have we a duty as legislators to take cognizance of that under the present circumstances?

Mr. TOBIN. That is from the point of view of protecting the United States from getting into war?

Mr. SHANLEY. We always "protect them" in quotes, you know.

Mr. TOBIN. From the point of view of keeping us out of war I am not at all sure that that is the answer. The difficulty is that it means the interpretation of the political consequences, which is rather difficult to follow through. That is, I can see that if we had the same law on the books that we had before the last war, practically the same results would follow, and if Germany saw that it was decisively aiding the English, she would take the same moves to stop it.

Mr. BLOOM. Do you mean that we would be drawn into the war? You mentioned that, and I wanted to know what you mean by that?

Mr. TOBIN. I would not carry it so far as to say that we would be drawn into the war, but certainly there would be interference by the belligerents that would suffer from the action we had taken, and if the result of that was such a reaction as we had in this country, we would be drawn into the war.

Mr. BLOOM. Then you do not mean that the same results would follow, that we would eventually be drawn into the war, if the war would continue long enough?

Mr. TOBIN. I think that that is very likely.

Mr. BLOOM. That is all. I just wanted to ask that question, because you mentioned the same thing applies, and I wanted to be sure what you meant.

Mr. TOBIN. I hesitated to make the statement categorically, that we would be drawn into the war, because there are many other factors which might not be duplicated.

Mr. BLOOM. I think the committee would rather have a direct statement to know what is in your mind, than to keep on ducking.

Mr. CHIPERFIELD. Mr. Chairman, I was very much interested in Professor Tobin's statement.

Professor Tobin, here is the situation we are up against. On May 1, the cash-and-carry provisions of the Neutrality Act are going to expire. These hearings have been going on for several weeks, and we have got to make up our minds whether we are going to let the cash-and-carry provisions expire, or whether we are going to retain them.

We determine whether we are going to retain the present Neutrality Act, repeal it, or adopt some of these amendments.

Now, if you desire to do so, on any of those phases, we would appreciate your recommendations; that is what we are up against.

MR. TOBIN. The first and pressing problem, as I understand it, of course, is the cash and carry, because of its expiration at the beginning of next month. Now, there are definite advantages, I think, in the policy as it now exists, that is, with the cash and carry in there. But I am very dubious of the ability to enforce those provisions in the case of a long war. I think in the case of a short war, it probably could be handled all right, but I foresee very serious dislocations, economically.

MR. CHIPERFIELD. You mean because of the propaganda or prejudice or feeling that might arise in favor of one belligerent or the other, or something of that kind?

MR. TOBIN. I would put it on the basis of all of those, plus the economic dislocation and loss which would result from a maintenance of that policy.

MR. CHIPERFIELD. Especially under those provisions, to our own American shipping?

MR. TOBIN. As far as shipping is concerned, exporters, or anything which depends on taking American goods or capital out of the country would be very seriously affected, and we would see not only that loss here but the fact that other nations were benefiting economically.

MR. CHIPERFIELD. Have you given any consideration to allowing our American shipping to participate in a cash-and-carry plan, but letting them do so at their own risk?

MR. TOBIN. I am fearful of the emotional reaction on the American people, even if they are doing it at their own risk, if such events as the German torpedoings are repeated. That is the first one. After all, they went in there at their own risk, but I think it is quite likely if there are four or five torpedoings and if American lives were lost in each one of them, that you would stir up such an emotional reaction.

MR. CHIPERFIELD. In the case of Sweden and Norway and the Netherlands, and I believe in the case of England, during the Spanish Revolution, they lost a lot of ships, and they did not seem to be able to stir up very much feeling for those shipowners, whenever their ships were lost.

MR. TOBIN. And, of course, during the last war, that was also true in the case, particularly, of the Scandinavian countries; they had perfectly tremendous losses, but they did not go to war; but I think there is a different factor there, in that they were small States, and participation in the war was very apt to ruin them very quickly, and I think that that will probably not be true in the case of this country.

MR. STEARNS. I look at it from a different angle, and I get the impression that what you meant, more than you actually said, that if in principle, if we had a clear statement, there was no neutrality legislation on the books, you would not be inclined to enact any, but leave the matters in the care of international law?

MR. TOBIN. I would leave it to the control of international law, and meet it on an improvised basis.

MR. BLOOM. The neutrality of international law?

MR. TOBIN. Yes.

Mr. STEARNS. And such neutrality would be more than the control of our own nationals?

Mr. TOBIN. I think that we are entitled to do that as long as it is impartially applied, and I think that with the consideration which has been given this problem, from so many angles, that we are probably on safer ground to enact a specific bill which would meet a specific situation, because as it is now, any legislation which is made, must be influenced to some extent by specific situations that the legislature did not have in mind, and the conditions are continually arising which do not meet that situation.

Mr. STEARNS. So with that meeting the situation, and with that legislation on the books, would you consider that repeal was too complicating a thing for the present situation?

Mr. TOBIN. I cannot give a categorical answer to that. I think probably it would be no more likely to produce any disastrous consequences than would any legislation which might be enacted.

Mr. STEARNS. To wipe the slate clean, and then enact such specific things as seem to meet the new conditions?

Mr. TOBIN. Yes.

Mr. VORYS. In line with your suggestion, as to a specific bill to cover a specific situation, what would you think of a specific embargo against Japan?

Mr. TOBIN. I do not think that could be possibly put under the head of neutrality legislation. It seems to me to go into an entirely different category, and I might get in over my depth if I started talking about that.

Mr. VORYS. Well, as to what the label should be; I think that there is a good deal of feeling that none of the neutrality legislation is neutral, and that is not its design, to be neutral; it is to keep us out of war, and serve our national defense, so that you are not bound by your own idea of neutrality legislation, in answering my question.

If you think that it would be a good thing for the United States to do, you could answer that.

Mr. TOBIN. Might I put the question this way: Would it be a good policy for the United States to enact—to put through an embargo act against Japan?

Mr. VORYS. Yes.

Mr. TOBIN. I should dislike to see it done.

Mr. BLOOM. Why?

Mr. TOBIN. Well, I think that there is an implication of a moral judgment in there, which I am not sure that the Government as a whole is prepared to make just on those grounds. That is, on any ground, that is to say, at the moment.

Now, if as a result of careful consideration, the Executive, plus the legislative branch, feels at this moment that we should utter some sort of decisive condemnation of Japan, then I think such an act belongs properly on the books, and otherwise I should think not.

Mr. VORYS. Well, if we repealed all neutrality legislation, and the Executive felt that the time had come to lay an embargo on against Japan, it could not be done, could it?

Mr. TOBIN. Well, as we discussed this a few moments earlier, it has got to be done by action of the legislature, yes. However, the lead, I would suppose, would come from the Executive.

Mr. VORYS. Then, if the Executive approved of an embargo against Japan, at the present time, would you approve of that specific embargo even though we repealed all other embargo legislation?

Mr. TOBIN. That would imply my saying that any action which the Executive might take, in the field of foreign relations, should meet with my approval, as I see it, and I would not care to do that. That is, I do not feel that necessarily, every action in the field of foreign relations which the President thinks should be taken, should therefore be taken. That is, supposing there is no check whatever on any action he might take, and I am not prepared to go that far.

Mr. KEE. Continuing the discussion along the line suggested by Mr. Vorys, in the event that we had in contemplation taking some action with reference to the Japanese situation as it is now, would you think it would be the part of wisdom rather than to enact some specific legislation, placing an embargo against shipment of arms to Japan, to enact general legislation, for instance, such as the Thomas or Geyer resolution, which would put upon the statute books Presidential discretion in that respect, subject, of course, to the approval of the Congress, and then leave it at that until such a time should arise, when we thought that it was proper to put the embargo into effect against Japan?

Mr. TOBIN. I think that that might be a very useful thing to do. However, that is a matter of policy. As I understand it, it would give the Executive the power to institute such an embargo if Congress considered it advisable to do so, and it would therefore serve as an indication to the foreign State against which it might be directed that such action was in contemplation.

Mr. KEE. Now, in addition to that, by having a statute upon our books, of that character, all nations would be subject to that?

Mr. TOBIN. Yes.

Mr. KEE. All nations would know that that power existed in the President to do it, at any time that he might deem necessary, but of course subject to the approval of Congress?

Mr. TOBIN. I think that that is the field.

Mr. KEE. Therefore they would not be taken by surprise and it would not be said that we were changing the rules of the game during the progress of the game.

Mr. TOBIN. I think that that might be very useful, and I think anything which ties up the legislative and executive in the field of foreign relations, so that their mutual powers are clearer to the foreign States, is a very useful thing, and I think it is one of the weakest spots in our governmental organization now.

Mr. KEE. Well, is it not true that it would be better for us to put something upon the books showing to foreign countries that we had such an act in contemplation, in the event that they acted in a certain way or conducted themselves in a certain manner, instead of waiting for the emergency to happen, and in the midst of hostilities, then suddenly enact what we might call a neutrality act, or a law imposing an embargo?

Mr. TOBIN. I think that that probably is a safe procedure. The moment that you make an application of any such thing necessary, you get into dangerous territory, but I think if it is left in the way that you suggest it would be a safe thing to do.

Mr. KEE. To make it mandatory?

Mr. TOBIN. Yes.

Mr. SHANLEY. I was going to say that your apparent confidence in the strict interpretation of international law does not prohibit or preclude the imposition of an embargo as Mr. Vorys suggested, if it was necessary as a diplomatic weapon?

Mr. TOBIN. That is, of course, out of the field of neutrality.

Mr. SHANLEY. That is in international law.

Mr. TOBIN. Yes, and in international law you can take measures short of war, if you are willing to take the chances of the reaction on the person against whom they are directed; it is not internationally illegal.

Mr. SHANLEY. You are only taking that unilateral action to drive the affected party into conformity with international law, per se, are you not?

Mr. TOBIN. I object to it on that basis because I do not think that we have the right to set ourselves up as an interpreter of the obligations of other States and to apply penalties.

Mr. SHANLEY. Well, suppose that nation A to which we are applying the standard of international law has refused to accord us certain privileges; let us say that they armed merchantmen, and we deny that. The President then says that unless you agree to this we are going to embargo or deprive you of arms and ammunition and implements of war. He can do that, can he not?

Now, that is not passing judgment on the quarrel; it has nothing to do with the quarrel; that is perfectly legal.

Mr. TOBIN. Yes; that is perfectly legal.

Mr. SHANLEY. Even though the Executive is doing what ordinarily should be done by Congress.

Mr. TOBIN. Well, of course, there is a broad field in there, of particular retaliatory action, just as there is a field where you have executive agreements instead of treaties, where that is more or less debatable ground, and I think that that is in it.

Mr. SHANLEY. What I am driving home now is that once an action is made to impose a penalty, not because you are passing upon the merits of a quarrel, or because you are affected with an aggressor nation's philosophy, the President has a right to impose these unilateral embargoes not because he is attempting to impose his will, or his moral judgment, but because it is necessary for the defense of our interests, and international law allows that?

Mr. TOBIN. I am not sure that it would be possible for the President to take such action as retaliatory action without any action by the legislature. I would hesitate to say that.

Mr. SHANLEY. On the other hand, the repercussions of that were threatened, with England, that we should withhold arms and munitions.

Mr. TOBIN. You mean during 1914 to 1917?

Mr. SHANLEY. Yes.

Mr. TOBIN. I would hesitate also to draw any definite conclusions from that because Secretary Lansing himself in his memoirs has stated that he did not want at any time to make any issue between the United States and England so sharp that it might even threaten the possibility of breaking off diplomatic relations, and the British Government knew that; and I think it is very difficult to derive conclusions from anything connected with our relations with England during that period in which he is involved.



Mr. SHANLEY. As a matter of fact, it was that advance knowledge that made it impossible for him to get anywhere with his diplomatic efforts.

Mr. TOBIN. He deliberately stated in his notes to England he left them clouded because he did not want to bring an issue sharply to a focus.

Mr. SHANLEY. I want to pursue this other point, because it is the use of the congressional right to embargo goods as a diplomatic weapon. Let us assume that it comes to a point now where the President, in order to drive his decision home, or the desire, which is backed by the American people, are you going to force him to come to the American Congress in order to embargo loans and munitions in order to get his point through?

Mr. TOBIN. That is, if the present law is repealed, and there are no others on the books?

Mr. SHANLEY. Under international law.

Mr. TOBIN. As far as international law is concerned, any section which is taken by the Executive supposedly binds the Government, and, of course, another government does not have the obligation to look into the structure of the American government.

Mr. SHANLEY. That is true.

Mr. TOBIN. But it would be no concern of theirs, if the President said he was going to do it; presumably, they would consider that he had a right to do it, and they would not look into that.

Mr. SHANLEY. I am wondering whether he could do it under his right to present claims or not; whether he has that authority.

Mr. TOBIN. That is, to threaten to place an embargo on in case the claim of the United States is not met?

Mr. SHANLEY. Take Winchester Arms, which is in my district: The President is going to embargo arms, and he tells the A nation that unless they give in on this diplomatic question—and he does not do it as brutally as I am doing it but in diplomatic language—he tells them that it is necessary to impose an embargo on munitions, and obviously, as a Congressman representing my district, I am a little bit disturbed, because of the unemployment problem.

Now, what would I do as a Congressman under those circumstances, go to you as an international lawyer?

Mr. TOBIN. If you came to me in a case like that, in the first place there are other places that perhaps you should go first, but if you came to me as the only place that you could go, I would say that probably a foreign government receiving notice that the President said he was going to do such a thing would inquire of their Embassy there whether the sentiment in the country was such that it might be backed; and in the first place I should think that they would inquire on Capitol Hill, to see whether the House and Senate would back them up, and if they would find the Senate would not back it up they would consider it a bluff.

Mr. SHANLEY. The backing up would be by speeches; that is the only way they could elicit that sentiment.

Mr. TOBIN. If it was felt that the President, if he stuck an embargo bill into the two Houses, it would go through pretty quickly and easily, then I am sure that they would pay attention to it. I feel, however, that it would have to be done in that way, and I do not believe he could do as has been done, if my recollection is correct—in connection

with ships in the American merchant marine, over which the Government has control through mortgage, or loans—say that those ships could not be used for such a purpose, but I do not believe that he could go beyond that under his own authority.

Mr. SHANLEY. Then when he does that he runs into the Government accounting; for instance, the Government cannot sell munitions, as you know, to a belligerent; and how much can they use the governmental agencies to effect a policy like that, when it is Government-controlled?

Mr. TOBIN. The law being on the books, then his powers of enforcement would permit him to take whatever action is necessary. It is up to him to use the governmental agencies to see that it is carried out, whatever agencies those may be.

Mr. SHANLEY. Now, arms and munitions, of course, you cannot do that. How about loans? Can you see any loophole for loans?

Mr. TOBIN. You mean with the present act still on the books?

Mr. SHANLEY. With the present act off.

Mr. TOBIN. With the present act off, how could he make a loan?

Mr. SHANLEY. Without coming back to that, how could he utilize a loan embargo without coming back to Congress?

Mr. TOBIN. Well, if the act—

Mr. SHANLEY. Under international law?

Mr. TOBIN. To embargo loans?

Mr. SHANLEY. Yes.

Mr. TOBIN. I do not see how he could do that.

Mr. SHANLEY. He must come back to Congress?

Mr. TOBIN. I should think so.

Mr. SHANLEY. We will pass over that; but how about Americans on belligerent ships?

Mr. TOBIN. That is, could he order them off belligerent ships?

Mr. SHANLEY. Yes.

Mr. TOBIN. No, I would not think so.

Mr. SHANLEY. Of course, we have had witnesses before; one said that he could, and others said that under the right to present claims for individual damages he could use that.

Mr. TOBIN. Well, the presentation of claims, of course—he could notify the American people that the presentation of claims in regard to those things would be held up. I am not even sure that he could state positively that those claims would never be presented, because after all, the Claims Commission—pressure could be put on him to set up a Claims Commission, and then he would have to.

Mr. SHANLEY. Of course, it says under international law you take your protection from the flag, and it is an elementary rule that the President has a right to keep Americans off belligerent vessels.

Mr. TOBIN. I did not know that that was so. I would not know where that power would come from.

Mr. SHANLEY. He said, in his words, that it is international law that a passenger on any ship takes his protection from the flag under which he sails.

Mr. TOBIN. Yes; if he sails under a belligerent flag he is out of our protection. Then we are not required to assert any protection over him, but I cannot understand on what grounds it could be said that that protection has been denied by international law.

Mr. SHANLEY. It is the custom. The author does not give any instance, but he says the custom of nations is such that you must

take your protection from such flags, because you put yourself under that protection.

Mr. TOBIN. That would mean that no American on a belligerent vessel could expect the protection of this country if the President had warned him to keep off.

Mr. SHANLEY. That is right.

Mr. TOBIN. I would not accept that. I would hesitate very strongly to accept that.

Mr. CHIPERFIELD. Professor Tobin, you were discussing a moment ago the Thomas amendment. Let us take that into consideration and similar proposals. As I understand it, those depend upon a finding of fact that there has been a treaty violation; is that correct?

Mr. TOBIN. Yes.

Mr. CHIPERFIELD. Now, take this situation: Suppose there was one country attacking another country, and they had not entered into a treaty with us; we would have a difficult time finding some excuse to interfere, would we not?

Mr. TOBIN. We would certainly not have any power then to exercise this moral judgment.

Mr. CHIPERFIELD. Then let us take a similar situation: Suppose these people are trying to find an excuse, and they decide that there has been a treaty violation under the Kellogg Pact—almost all countries have joined in this pact, and it says that they will not go to war, or use war means.

I would like to call your attention to the fact that when our Senate did adopt the Kellogg Pact, that it was with the understanding that it was not to involve any reprisals, or that there was not to be any embargo—do they not really just grasp at an excuse so far as treaties are concerned, and make that an excuse to get us into someone else's business, where we do not belong?

Mr. TOBIN. Of course, I am opposed to the Thomas amendment, on several grounds. One of them is the necessity it puts upon us to pass moral judgment on the claims of belligerents, and another one is that it derives most of its value, so far as it has value, from the Kellogg Pact, and every state which ratified that excepted defensive war, and we accepted that exemption, which means, as near as I can see, that there is no way by which you have got a clear-cut definition under that.

Mr. CHIPERFIELD. They simply take that as an excuse to justify our going into these things?

Mr. TOBIN. I would not say it is an excuse to justify our going into war so much as an excuse to bring our pressure, which for instance we can now bring on Germany, if that Thomas amendment went into effect, to keep them from taking action which would produce war that is the deterrent, and I think is a thing that most of the proponents of that are interested in, rather than the actual means of bringing us into war. I doubt very much if they are anxious to get us into war at all.

Mr. CHIPERFIELD. That is very hopeful for the result to keep us out of war.

Mr. BLOOM. There is no penalty in the pact.

Mr. TOBIN. In the Kellogg; no, none whatever.

The reservations to that, of course, I think, are responsible for the fact that it was so universally accepted.

Mr. BLOOM. If there is no penalty, how could you take it upon yourself to decide?

Mr. TOBIN. Precisely; that is my objection to it. We are implementing the pact with ourselves as the sole judge of whether it has been violated.

Mr. BLOOM. You are placing a penalty into the pact.

Mr. TOBIN. Yes; unilaterally.

Mr. BLOOM. Any further questions?

Mr. KEE. That is not the only treaty that has been violated.

Mr. TOBIN. Not at all; I think there is a much clearer case to be made for the violation of the Nine Power Pact in the Pacific.

Mr. KEE. It is not the only one that likely will be violated.

Mr. TOBIN. Well, of course that is possible, too. Treaty violations have a long, long history. It is an honorable tradition to violate treaties before they are very old.

Mr. KEE. An amendment of the present act, or the Thomas amendment, would take in all of these treaties.

Mr. TOBIN. Of course, I merely mentioned the Kellogg Pact, because that gives us the broadest sweep of nations, over which we could exercise some judgment.

Mr. JOHNSON. Future treaties entered into—suppose the Thomas amendment should become a law—in future treaties entered into between the United States and other governments, the existence of the Thomas resolution upon the statute books would of itself constitute notice to those making treaties with us hereafter that that remedy of enforcement was ours, would it not?

Mr. TOBIN. Yes; quite.

Mr. RICHARDS. What about the denunciation of treaties? Do you not think that one of the disadvantages of the enactment of the Thomas proposal would be to discourage other countries from going into and making treaties with the United States or encouraging them to denounce treaties already made?

Mr. TOBIN. I think that that would be quite true; if it was clear that that was going to be actually enforced on a wide scale, it certainly would cause a searching of hearts in the foreign offices of other countries in regard to every treaty to which they and the United States were both parties, and of course it would presumably act also as a deterrent of certain types of treaties thereafter.

The trouble is that so many treaties are set up with no time limit, not because they are expected to be eternal but no one knows how long they should be enforced, and after a few years they become in one clause or another obsolete, and now some nations hurry that process for their own advantage, but very often it is just a process of natural change, and the only way that those have been done away with to a large extent in the past has just been allowing them to be ignored, but if there is always this weapon on the part of the United States, the implications of it look to me to be quite dangerous.

Mr. BURGIN. Do you make any specific recommendation to this committee, to repeal this law, or amend it?

Mr. TOBIN. I would rather not, because the repeal leaves the thing wide open, and it looks to me probably the safest thing to do at the moment, but without examining very carefully into the whole treaty structure and our obligations, which have built up to some extent since the law was passed, I would hesitate to say absolute repeal and leaving the slate clean is the best solution for it. I think, however, that if immediate action is required, that it is probably the safest

action that could be taken, and simultaneously with it should be a very careful examination of any obligations which we have assumed, particularly since the Neutrality Act was put on the books, to see if that is going to affect them or leave us in any sense vulnerable where we do not intend to be.

Mr. JOHNSON. Taking up the phase of the matter brought to your attention by Mr. Richards a few moments ago, in which you agreed in reply to his question that adoption of the Thomas resolution would probably discourage the entry of other countries into treaty with ourselves. It would eliminate, would it not, to a certain extent, having the fingers crossed of other governments when they did enter into treaties; they would really know what they were doing. And do you not think that as a matter of policy fewer treaties, but treaties entered into in good faith, in which they are expected to be complied with, would be better; that is, effective treaties, rather than a volume of treaties, would be more desirable?

Mr. TOMIN. I think that treaties have got, perhaps, an unwarranted bad name. It is the only means by which the relations between any two states can be arranged. Everything has got to be done by treaty, all the work we do by contract and all by legislation.

Mr. JOHNSON. If we had a world court where people could go, or countries could be haled into world courts to be tried for their derelictions and punished for their failure to keep treaties, that is one way that it could be done, and it has been suggested; but this Thomas resolution is a method by which there is another way of tending to enforce treaties, and I do not know—I am not sure just what I want; in fact I am keeping an open mind on all of these things—but it does strike me that there is some merit in the suggestion that our Government should have some way to make countries keep their treaties or contracts with us, just as a fundamental proposition, as long as we keep ours. They must keep theirs, and there must be some way to do it, and not just signing your name.

In other words, suppose A and B are two citizens, and they make a contract. When they sign the contract, they can both void the contract if they want to. Why is there not some way by which governments can be made to respect their contracts, like the citizens and individuals toward each other?

Mr. TOMIN. You see the difficulty with a system such as the Thomas amendment is this, to continue your analogy of contracts: Two people make a contract, and one of them retains the power to determine whether the other has violated it or not, a power which does not belong to the other.

Mr. JOHNSON. In other words, A and B are neighbors, and they sign a contract. A goes to the store and says he will buy goods but he fails to pay. Then B says "Why, you signed a contract that you would pay me." A says "I do not want to." B says "Then I will not sell you any more goods." That is a reasonable proposition.

Mr. TOMIN. There is an element in there which perhaps has been missed. That is, under this contract system that you are talking about, you have got a whole system of legislation and of courts back of it, the thing which we have not got here.

Mr. JOHNSON. I am talking about the machinery to enforce contracts between countries. It is really not a court, it is a simple way

of saying that if you sign a contract with me, and if you do not live up to it, why, I will quit trading with you.

Of course, I can understand that there is some contention of existing contracts entered into without knowledge that you are going to apply this, but I am talking about future contracts; I am talking about the policy of this country in the future.

Why is it not right, as a matter of right, that this Government should give notice to the world that any country that enters into a contract with us, if they break that contract we will not trade with them?

Mr. TOBIN. If we say that they have broken the contract.

Mr. JOHNSON. What is wrong with that as a matter of policy?

Mr. TOBIN. Actually you have got to look at it in the light of all of the different treaties that there are.

Mr. JOHNSON. I want to look at it just as that one fundamental proposition, not with reference to all treaties but just a proposition of our policy with reference to treaty breakers. Of course, I can understand that you can say that this treaty provides this, but I am talking about future treaty breakers of treaties made after this.

Mr. TOBIN. If it comes to a choice between the Thomas amendment as it is now, and the Thomas amendment which would apply only to treaties signed hereafter, I would say that the latter was very much better.

Mr. JOHNSON. Of course, anybody would know that, but I am talking about the matter of whether it would be right or wrong as to future treaties, whether you think it would be wrong as a matter of right and a matter of policy to apply that. I am not saying that I would favor it, but I am asking you if you can point out any reason.

You are an international lawyer, and you have thought about this, and I am just a country Congressman who does not know much about it.

Mr. TOBIN. I am not an international lawyer, I am just a country professor.

Mr. BLOOM. When you said that treaties have an unwarranted bad name, you shocked Mr. Shanley, and I know he is waiting to ask a question.

Mr. SHANLEY. I agreed. I want to say, as you have already said, that the mere fact that this treaty will be made may deter other nations from coming to us with commercial agreements because there might be retaliation, which is also the basis for the opposition to cash and carry. I mean, unless we can deliver, we will only be selling a few nations. We have got to deliver goods and commodities in spite of hell and high water and in spite of war and everything else.

Now, if we foreclose our opportunity to do it by domestic legislation, nations will be reluctant to have treaties with us.

Mr. TOBIN. It is hard enough to get those things through now, and it is just another obstacle in the way.

Mr. SHANLEY. Now, is it not also true that too many of our treaties have been drawn up just because somebody attempted to do something glamorous? To my mind—I may be mistaken on this—the 1922 conference was just an attempt to salve the consciences of those men who opposed the League of Nations, who then found themselves without something as a substitute. All of the pyrotechnics of that 1922 conference were just to lead people to believe that this was another

self-denial ordinance, somebody attempting to do something that was worth while, but not putting any teeth in it.

Mr. TOBIN. That is, the Far East conference?

Mr. SHANLEY. The Nine Power Pact.

Mr. TOBIN. Of course, I do not think that it was reduced to one motive. It is very likely that there was the motive in there, that the group which had helped to break down the American acceptance of the League of Nations wanted to take some international step which would look as though they too were attempting to set up a better international order. That motive was there, but it was not the only one, because, after all, it was an amplification of an old policy of ours, the open door in China, and it was quite a feat to get that accepted on paper in the form of a treaty, which it never had been before.

Mr. SHANLEY. But there was no penalty in the treaty itself, nor were there any provisions for getting out of it.

Mr. TOBIN. Denunciatory clauses of treaties are very rare, particularly in those where it is to the interest of all of the parties to keep an agreement going as long as they can; and now you will find in a commercial treaty there is almost always a provision that on 1 year's notice it can be denounced; and you will not find it in a political treaty, not because anybody thinks that it is going to be terminated but because they do not know how long they will want to have it last; and if they are going to put terms in it there will be a tremendous battle on terms.

Mr. SHANLEY. May I say that in most of our reciprocal trade agreements there is the clause in case of war it is understood that either signatory has a right to embargo arms and munitions, and they used the word "munitions" interchangeably with "ammunitions."

Mr. JOHNSON. I have one further question with reference to the retroactive objection, that is, the Thomas amendment being retroactive to the provisions of a treaty. I want to direct your attention to the question of the Johnson Act, by which, after we had made settlement of our debts with other nations, in which they agreed to pay us a certain amount, and default was made after entering into those contracts, we passed a law which said that we would loan them no more money because they had not paid us; and now, was not that almost as retroactive as the Thomas resolution would be?

Mr. TOBIN. No, I would not think so, because it was a commercial obligation; that is, these loans.

Mr. JOHNSON. It was a contract, and you cannot duck it on the ground that it is commercial; it is a contract.

Mr. TOBIN. No, it was a contract; and we said that until that was paid we would lend them no more money.

Mr. JOHNSON. Had not we already had the contract on which they had agreed to pay us just like these other matters?

Mr. TOBIN. Yes.

Mr. JOHNSON. And thereafter they did not pay us, and we said that we would not let them have any more; is that not the same thing?

Mr. TOBIN. I would not consider that any more retroactive than if you make a commercial loan and it is not repaid; you tell the man that you are not going to lend him any more money. I would not call that applying a penalty retroactively, because you had no obligation.

Mr. JOHNSON. We had a contract by which we were going to sell certain goods, and then they did not complete it.

Mr. TOBIN. If you had made partial delivery, and refused to deliver the rest, then there would be a legal case, but there was nothing of that sort here.

Mr. SHANLEY. That is true.

Mr. BLOOM. We thank you very much, Professor Tobin, and the committee appreciates your coming before them and giving the benefit of your knowledge in this matter, and we thank you very much.

**STATEMENT OF MISS JOSEPHINE SCHAIN, OF NEW YORK, N. Y.,  
CHAIRMAN OF THE NATIONAL COMMITTEE ON THE CAUSE AND  
CURE OF WAR, THE AMERICAN COMMITTEE FOR NONPARTICI-  
PATION IN JAPANESE AGGRESSION**

Mr. BLOOM. I would like to call Miss Josephine Schain as our next witness. Miss Schain is the chairman of the National Committee on the Cause and Cure of War, the American Committee for Nonparticipation in Japanese Aggression, of 70 East Forty-fifth Street, New York City.

Miss Schain, do you represent these different committees here today?

Miss SCHAIN. I represent the National Committee on the Cause and Cure of War. I am chairman of that committee. We had a meeting this last Wednesday, and I told them of the invitation to come here, and they asked that I speak for them.

Mr. BLOOM. Thank you very much. Proceed.

Miss SCHAIN. Mr. Chairman, the National Committee on the Cause and Cure of War is composed of representatives of the following great women's organizations of this country: American Association of University Women, General Federation of Women's Clubs, National Board of the Young Women's Christian Associations, National Committee of Church Women, National Council of Jewish Women, National Federation of Business and Professional Women's Clubs, National Home Demonstration Council, National Women's Christian Temperance Union, National Women's Conference of American Ethical Union, National Women's Trade Union League.

For 14 years the committee has been pursuing a search for the causes of war and its cure, endeavoring to create an intelligent public opinion on matters with which our foreign policy is concerned. The general objectives of the committee are to work for the building of effective peace machinery, to reduce war machinery, and to obtain guaranteed security against war for every nation.

A national conference has been held each year, local conferences have been organized, and study groups by the hundreds have been carried on throughout the country.

From this great cross section of women from every part of our land, from every walk of life, each organization may send 100 delegates to attend the annual conference, at which outstanding experts on international affairs appear each year. Differing points of view are always presented so that we may have all-round discussion of the questions under inquiry. Each year a program is adopted which is sent to the 11 cooperating organizations for study and action.



I make this statement concerning the set-up of our cooperative effort so that you may know the thoughtful consideration that has been given to its recommended programs each year.

After the Neutrality Act was passed in 1935 hundreds of study groups conducted by the organizations began considering the issues involved, as a result of which in 1937 and again in 1938 the national conference passed a resolution calling for revision of the neutrality policy of the United States through legislation designed to keep our country out of war and to permit cooperation with other nations to prevent war, this revision to provide that:

This country shall consult with the other nations signatory to the Pact of Paris whenever there is a threat to peace;

That a distinction shall be made between the aggressor and the victim; and that the embargoes shall include munitions, credits, and essential war materials.

The question of neutrality was again before the conference last January, and at that time the conference urged its members to support a policy which calls for—

\* \* \* consultation, in the event of war or threat of war, with other signatories of antiwar treaties, to determine a basis for peaceful settlement; and provision for the adoption of financial and economic measures designed to withhold aid from treaty violators.

and announced in its call to action:

The Neutrality Act has failed of its purpose. It was designed to keep the United States out of war and to prevent war. It has brought the United States nearer to involvement in war. It has served to give aid to treaty breakers and war makers.

We, the delegates at this conference, indict the Neutrality Act as a major contributing factor in the present strife and confusion of the world.

The act must be amended to make it an instrument of peace and justice, through provisions which would preclude the sale of American primary and secondary war materials to nations waging war in violation of treaties.

and then:

The 1939 conference on the cause and cure of war calls upon the 11 participating organizations to redouble their efforts to place before Congress incontrovertible testimony of the extent of this demand for revision of the Neutrality Act.

Such revision would make it possible at once to deny to our citizens the right to sell to Japan such war materials as are now being used by her in her military campaign in China.

A second method for controlling sales of war materials to Japan would be that of a special legislative measure directed toward that purpose alone.

And now in the midst of the current neutrality discussion in Congress, the national committee meeting on April 19, 1939, reiterated its principles. I quote:

Appraising situations in our contemporary world, we believe that neutrality is impossible. No matter what a nation chooses to do or not to do in relation to belligerents helps one side or the other. Neutrality as practiced by the United States since 1935 has helped Japan against China, Italy and Ethiopia and has influenced the Spanish situation.

We believe that the act must be amended to make it an instrument of peace and justice, through provisions which would preclude the sale of American primary and secondary war materials to nationals waging war in violation of treaties.

In presenting this recommended program the national committee on the cause and cure of war I value the privilege of adding a few personal comments.

Enlightened self-interest, if nothing else, calls for a reconsideration of our neutrality legislation. Our country cannot afford to stand by and watch the world drift further and further toward anarchy, nor can it afford, even indirectly, to continue to help aggressors. It seems incredible that we should need further schooling in the meaning of aggression, when we have had before us the plain lessons of Manchuria, Ethiopia, Spain, China, Austria, Czechoslovakia and now Albania.

In the Italian-Ethiopian conflict the application of the law placed the United States on the side of Italy and against the people whose country was invaded. In the Spanish conflict, the application of our neutrality legislation in reality threw the influence of this country on the side of the war makers.

In the Far East there is being enacted one of the greatest tragedies in all history. In front of the Japanese Army are driven millions of the civilian population of China, bombed from the air by an army which we in the United States are helping to equip. The mass of American citizens is clearly opposed to any such help to Japan, but again because of the inflexibility of the neutrality legislation to distinguish between aggressor and victim, we have been forced into this position. Thus three times the United States has found itself in the unenviable position of aiding an aggressor.

The neutrality law runs counter to the principles underlying the Kellogg Pact which pledges us to join with other nations to outlaw war. Under the law's mandatory provisions we leave the war maker free, and thereby place a premium on the violation of treaties. We announce beforehand to the treaty-breaking nation that it is free to go ahead as far as we are concerned, that we have no interest in the maintenance of international order. Thus we have been maneuvered into the position of helping the forces of destruction and anarchy, as a direct result of this legislation.

Under the cash and carry provision, the advantage is placed on the side of the greatest sea power or the strongest industrial State, on the side of the strong against the weak, irrespective of right or wrong of the issues involved, irrespective of our own national interests.

Also, the list of prohibited materials does not include raw materials. Many of these are as important to the aggressor as finished munitions.

The neutrality law has the effect of placing our foreign policy in a strait jacket. Policies for the adequate conduct of our foreign policy should be flexible and easily adaptable. The automatic provisions of the present law are a handicap to the competent handling of diplomatic situations as they arise.

One cannot discuss neutrality without coming flat up against the question of isolation. I am always perplexed when I hear people argue with such conviction the United States should continue its traditional policy of isolation. The history of our foreign policy is not one of isolation, but of striking instances of our need to work with others. What else is implied by the Monroe Doctrine, the open-door policy, the Kellogg Pact, the Nine Power Treaty, and a long series of other commitments, treaties, and policies? All of these belie the theory of isolation.

The twentieth century demands even broader cooperation with other countries than we have given in the past. The history of

civilization is the history of ever-widening areas where law and order prevail. Man has learned how to live in a national society; he must now learn how to live in an international society. All nations are increasingly bound together through the developments of science, invention, commerce, and transportation. A constructive foreign policy must use these for the advancement of peoples and not for their destruction.

As one illustration of the way in which our own national welfare is conditioned by the international situation, let me point to the staggering budget for armament that the American people must raise as a result of the present international lawlessness. Every taxpayer should wake up to what even the threat of a world at war costs him.

As long as there is any war anywhere in the world no nation is safe, no people secure. Conflict anywhere can spread rapidly and engulf us all. We should have learned from the World War and from the depression of 1929 that events in other parts of the globe have their inescapable repercussions here. We pray that we shall never again send an Army overseas, but even though we do not take part in a war, it is quite beyond our control to insure against another world depression, the aftermath of modern war.

Let us cease thinking in terms of only two lines of action—of going to war or of doing nothing. There is an area between these two. The situation that confronts us calls for creative action in this area and challenges us to devise ways in which we can use the great power and idealism of our country to stop aggression and to aid in the building of a world order based on law and justice.

The neutrality law is not worthy of America. Its record in operation is nothing to be proud of and it is by this record that we must judge. I have high hopes that this Congress will be able to make a contribution to American foreign policy which will establish the United States as a force for international justice and peace.

Mr. RICHARDS. I judge from your very able paper there, that you are in favor of the United States declaring who are the aggressors and taking suitable action to stop that aggression. Now, what about the United States? Do you think that we have got clean hands in that? Was not this country settled by aggression?

Miss SCHAIN. The passage of the Kellogg Pact changed international law. Up until that time war was not illegal internationally. After the Pact of Paris was signed by the nations war became an international crime. All of my argument is based on the theory that now we are trying to build up an international order.

Mr. RICHARDS. Since we have acquired whatever we want over here, we are trying to build up a new international order somewhere else, is that your theory?

Miss SCHAIN. No, that is not the theory.

Mr. RICHARDS. Now, let me go back to the Neutrality Act. You have discussed that from two standpoints; you said it has been a failure from the standpoint of our own country, from a selfish standpoint, and you thought the effects of it had been a failure when it came to international relations.

You will admit that so far that act has not had a tendency to get us into a war will you not? The primary object of that act was to keep us out of war.

Miss SCHAIN. It has not yet, but that is no sign that all of this drifting and helping to build up strong aggressors will not eventually bring us into war.

Mr. RICHARDS. And you think that the act itself, though, it has not got us into war, has a tendency toward carrying us into a future war?

Miss SCHAIN. That is right.

Mr. RICHARDS. And you would repeal the whole act?

Miss SCHAIN. Well, as I tried to outline in the recommendations of our committee, we would amend it so as to distinguish between aggressor and victim of aggression. We would enlarge the scope of the embargo to include raw materials.

Mr. RICHARDS. Then you would be favorable to the Thomas resolution?

Miss SCHAIN. Yes; that fits more closely to my thinking than any of the other proposals, but if that cannot be, then I think perhaps a repeal of the law with the exception of keeping the Munitions Control Board.

Mr. JOHNSON. You stated that the existence of our present neutrality law had in your judgment either brought about or aided Japan in the war with China. Would you explain how, since the law was not invoked against either country? What effect has the mere existence of the law upon the statute books had in bringing on that war and helping either country?

Miss SCHAIN. I do not think that it had the effect of bringing on a war, but I think that the question of our shipment-----

Mr. JOHNSON (interposing). What was your statement about that? You said something in there.

Miss SCHAIN. That it has placed the United States on the side of the aggressor, and Japan is the aggressor.

Mr. JOHNSON. What is the difference, not having any law, or not having invoked it insofar as the aiding of the aggressor in Japan?

Miss SCHAIN. I think it has handicapped our Government in taking action in the Far East. That is, of course, a matter of opinion. That is my opinion.

Mr. JOHNSON. If it was not invoked, there was no handicap. In other words, we have acted toward Japan and China just as though there was no neutrality law. I just cannot see what effect it has had in the Far East?

Miss SCHAIN. It has been a handicap to our Government in taking other action.

Mr. JOHNSON. In what?

Miss SCHAIN. In taking other action.

Mr. JOHNSON. What other action?

Miss SCHAIN. Any action that it might want to take. We have been concerned with getting something done about the Far Eastern situation, and find ourselves handicapped by the question of applying the neutrality law where we would have to deal with both China and Japan alike. What we would like is to have the neutrality law amended so that we could distinguish between aggressor and victim.

Mr. JOHNSON. We might have passed some legislation levying an embargo against one or the other?

Miss SCHAIN. That might be possible.

Mr. JOHNSON. We could do that anyway. We have got to amend the Neutrality Act. The fact that it is on the statute books prohibits the President from placing an embargo on without an act of Congress.

Miss SCHAIN. I know that, and I would like to see an amendment to the Neutrality Act so that it would make it possible to distinguish between aggressor and victim.

Mr. JOHNSON. What I was pointing out, I thought that you were rather unfair, at least to me it seemed a little unjust to our present neutrality law to say that the war in Japan and China was brought about because of the Neutrality Act, or that the act helped one or the other of the powers involved.

Miss SCHAIN. I think that indirectly we are helping one side as against the other, and I think our shipments to Japan at the present time give Japan the advantage.

Mr. JOHNSON. The neutrality law had nothing to do with our shipments, because it has not been invoked; it is just like a wooden Indian.

Miss SCHAIN. If it was amended as the Thomas amendment provides for it would be possible to distinguish between China and Japan, victim and aggressor.

Mr. JOHNSON. That is dealing with the future and not the past.

Miss SCHAIN. Yes; that is what I am interested in.

Mr. BLOOM. Mr. Fish.

Mr. FISH. Just following up the same questions that have been asked, you have outlined rather vehemently in your criticism of the neutrality law as it exists, the fact is that it has never been put into effect. It seems to me that we are a little unfair.

Miss SCHAIN. You mean in the Far East?

Mr. FISH. Well, outside of Spain it has never been put into effect anywhere in the world, and yet you are vehement in your criticism of this awful Neutrality Act. Now, if it has not been put into effect, why is it so awful or disastrous?

Miss SCHAIN. Well, because it handicaps us in any kind of foreign policy that would distinguish between aggressor and the victim of aggression. If we start now to put it into effect, it has to be applied to both alike.

Mr. FISH. But there is nothing in that Neutrality Act that would have to do with the aggressor nations, not a word.

Miss SCHAIN. That is the indirect effect.

Mr. FISH. There is not one word.

Miss SCHAIN. I think that I mentioned before that we must consider the indirect effect of the law as well as the question of its application.

Mr. FISH. Now, I would remind you that the Kellogg Pact, was adopted by the Senate, under the distinct understanding that it had no forms of compulsion or coercion in it, and that was supported by a letter from the Secretary of State, Secretary Kellogg, the author of it, so that there would be no implied coercion, and now you want to write into it a coercion which, if it were in it at that time would have meant that it never would have been adopted.

Miss SCHAIN. I am thinking of the Kellogg Pact as basic to all future action on the part of the United States and other countries in building up a new international order. Any neutrality act passed, or

any other act dealing with foreign affairs, that shall be passed, shall have the building up of an international society as its objective.

Mr. FISH. Do you not see, if you go into a treaty and then change the terms of the treaty afterward, that everybody will repudiate the treaty, and withdraw from it? You cannot change the terms after it is written.

Miss SCHAIN. I am not asking to change the terms. I am asking to implement it.

Mr. FISH. If you actually violate the spirit of what was written in it, you are changing the whole theory of the bill, and of course the people will withdraw from it. Is not that natural?

Miss SCHAIN. I should think that it would still be the basis.

Mr. FISH. What you are arguing for is a status quo of the world. It does not make any difference to you if England has driven the Boers out of the Irish Free State, and out of the Transvaal and other groups out of Egypt or any other nation, that is water over the mill. Now you want to stabilize the status quo, is that not it?

Miss SCHAIN. Not at all, but I want changes to come by peaceful means, by legal means, and not by the use of force.

I think that there are a great many injustices that must be taken care of, that the world sooner or later has to face its responsibility for helping adjust the Far Eastern situation.

Mr. FISH. What you really want us to do is write into the law power to give the President the power to determine aggressor nations.

Miss SCHAIN. To distinguish between aggressor and victim of aggression.

Mr. FISH. Then after giving him the power to determine the aggressor nation, you give him the power which must necessarily follow, to punish and quarantine that nation.

Miss SCHAIN. Well, I should say that it would perhaps be different in different situations, but granted you have determined the aggressor, then to consider what we are doing as a nation to help the aggressor and what action shall be taken.

Mr. FISH. Now, you would give that power to the President or Congress?

Miss SCHAIN. Under the Thomas amendment the President and the Congress.

Mr. VORYS. What would you think, Miss Schain, of a congressional embargo, that is, a statute such as the Coffee bill, which would simply declare an embargo of strategic war materials on Japan at the present time?

Miss SCHAIN. I would much rather see the matter handled by the adoption of the Thomas resolution, where all questions could be taken care of, but if that cannot be, I am for an embargo against Japan.

Mr. VORYS. You understand, do you not, that if we passed the Thomas resolution, after it was all through, and passed, then we would have to start through again, and do exactly the same thing as we would do if we simply passed an embargo?

Miss SCHAIN. I understand that, but you have a basic principle back of it.

Mr. VORYS. Well, the Thomas resolution does not do anything, as far as effect is concerned, except state in terms what the present law is, that is, that at any time the President thinks that some nation is

violating treaties, he can call it to the attention of Congress, and then if Congress approves, and passes legislation, and the President approves and signs it, then we have an embargo, so that putting through the Thomas resolution would leave us just where we are now.

Now, assuming that there are many who would not see the future clearly enough to want to lay out any definite set of precedents, what would you think of passing the Japanese embargo, as opposed to simply letting all neutrality legislation lapse?

Miss SCHAIN. Well, I am for imposing an embargo on Japan, as I said before, though I am in favor of trying to work out some fundamental principle, and then have special action on fundamental principles, rather than merely taking every incident that arises, and acting on that.

Mr. VORYS. But that is what we do under the Thomas amendment.

Miss SCHAIN. Yes; but you have a fundamental principle back of it.

Mr. VORYS. We do not have any fundamental principle that does not now exist, that is when anything comes up in the world the President and Congress are going to get together and decide what should be done about it. That is the Thomas amendment, and that is the way the law is now.

Miss SCHAIN. When the other witness was on the stand I was very much interested in the point that you brought out, Mr. Johnson, with regard to this question, that all nations then would have warning, if we have a neutrality law that makes it possible to distinguish between aggressor and victim, as to what the United States is likely to do.

Mr. VORYS. Would not there be a pretty strong warning involved to any who might find themselves similarly situated later, if we simply passed an embargo against Japan? Whenever similar circumstances actually arose that action would in itself create something of a precedent.

Miss SCHAIN. Yes; I think that that is true.

Mr. KEE. Following up the line of thought suggested by Mr. Vorys, you would not call the establishment of an embargo against Japan an act of neutrality, would you?

Miss SCHAIN. No; but I do not think our so-called neutrality law is a neutrality law; I think it is a misnomer.

Mr. KEE. I think that you are correct about that. You stated that there were two courses of action, I believe: One would be going into war, and one doing nothing, and I take it that you realize that we have been following the latter course, we have been doing nothing.

Miss SCHAIN. We have been pretty much drifting.

Mr. KEE. And as suggested by Mr. Fish, the present Neutrality Act has not been enforced, you will recognize that?

Miss SCHAIN. Yes.

Mr. KEE. It has never been enforced?

Miss SCHAIN. That is right.

Mr. KEE. The neutrality we enforced in Spain was under a separate and distinct act, and therefore we have not done anything so far.

Now, you suggested that there was an area between these two, if I recall correctly.

Miss SCHAIN. I used the expression "an area between the two."

Mr. KEE. For action; and now what action would you suggest for us to take in that area between the two?

Miss SCHAIN. Well, I tried in quoting from the findings of our conferences last year, to suggest that our so-called neutrality law be enlarged to allow for distinction between the aggressor and victim of aggression, and then through financial and economic measures, to withhold aid from the treaty breaker.

Mr. KEE. Do you understand that the problem before us, before this committee, at the present time, is to make an effort to draw an act that will keep us out of war, in order to make this country neutral?

Miss SCHAIN. Yes.

Mr. KEE. Well, is it not your opinion that to take the action suggested by you, would not be an act of neutrality and would be more likely to plunge us into war than to keep us out of war?

Miss SCHAIN. I think that you have to admit at the present time anything we do is likely to lead us into war, if you have a war in the world. War is threatening now, and I would say that if we throw our great economic resources, and our power, against the aggressors, at the present time, we would be more likely to keep that war from coming on than as though we did nothing.

Mr. KEE. But whenever we name the aggressor against whom we are to throw our power, then we are taking a forward step, that is more likely to lead us into trouble than to keep us out, is that not right?

Miss SCHAIN. I do not think so. You are speaking about Japan—Japan realizes perfectly well that she has broken her treaty. The question is, What is she going to do? Is she going to take action on a theoretical basis of upholding international law? I do not think so. Also, has she the power to fight against us? I think the Japanese are pretty practical people and I do not believe that Japan would start war against us.

Mr. KEE. There is not much chance of Japan going into war against us?

Miss SCHAIN. She has her hands full now.

Mr. KEE. I understand, but there would be more chance of her taking action in the event that we took specific action against her, would there not?

Miss SCHAIN. Then what is your alternative? We just drift, and what happens? Exactly what happened in 1914. I mean it is not that we like the situation that we are in, it is not that I like to name Japan as an aggressor, but what is your alternative? Your alternative is to do what we did before, or tried to do, in 1914, and we found ourselves involved. In 1812 we tried to keep out, and we found ourselves involved. Our only hope, I believe, is to immediately begin to throw our influence to try to build up some sort of international moral standards.

Mr. KEE. Then, if I got your point, your advice to this committee, at the present time, is that we draw an act authorizing the naming of an aggressor?

Miss SCHAIN. Yes, so that it would be possible to bring some sort of control over that aggressor.

Mr. KEE. Regardless of the consequences?

Miss SCHAIN. I think your consequences would be taken into consideration when it comes before you for consideration.

Mr. KEE. That is all. Thank you.



Mr. ALLEN. How would you handle a situation of this kind, Miss Schain? Suppose the Indians, in India, arose against the British, which would be the aggressor?

Miss SCHAIN. I do not think that we would have that problem presented to us.

Mr. ALLEN. What is that?

Miss SCHAIN. That is not an international question, because India comes under the control of the British at the present time.

Mr. ALLEN. Then you are pretty well sold on the idea of freezing the status quo, are you not?

Miss SCHAIN. No, I would take care of the Indian problem through lawful international means or national means. I am not for freezing the status quo. I have great sympathy for the Indian people, and I would like to see the development of home rule for India, but I think that it has to come through procedures within the British Empire. I am not for freezing India into what she is at the present time, but I do not think that we get a solution of these problems through conflict. I think it is through peaceful processes that we must work it out.

Mr. ALLEN. No; but there, theoretically, would be a very serious conflict, with all of its implications. You devoted yourself to the theory of naming the aggressor, and now how would you name the aggressor there?

Miss SCHAIN. Is India a sovereign state under international law?

Mr. ALLEN. I cannot answer that question.

Miss SCHAIN. She is a part of the British Empire, so that——

Mr. ALLEN. Let us take Egypt. Egypt is an independent nation. Suppose the Egyptians arose against the British. The implications there would not be as serious as a similar situation in India.

Miss SCHAIN. Then I think that it would have to come before you for consideration if the neutrality law with the Thomas amendment was passed, and you would decide what action the United States would take.

Mr. BLOOM. The committee thanks you very much for coming before us.

#### STATEMENT OF HON. FRED J. SISSON, FORMER MEMBER OF HOUSE OF REPRESENTATIVES

Mr. BLOOM. Our next witness is Mr. Sisson. This is Mr. Fred Sisson, former member of the House, and I think most of you gentlemen know him.

Mr. SISSON. Mr. Chairman, I appreciate——

Mr. BLOOM. Do you represent anyone other than yourself?

Mr. SISSON. I represent myself mainly. I was requested to come here by one of the organizations, the National Council for the Prevention of War, and I think I am authorized to say that I represent that organization. I should like to say at the outset, Mr. Chairman, and members of the committee, that to my mind the question before you and the question before the country is not at all a question as between isolationism and collective security. It is not so simple as that.

I am a little bit annoyed sometimes to be called an isolationist. To clear the record I want to say that so long as there was an institution for the purpose of securing international justice, designed for that

purpose, and for preserving peace, an institution which operated as such, or that we hoped could operate as such, I was in favor of it. I was in favor of the League of Nations; but I think that we should all be realistic enough to appreciate that that condition today does not exist. The League no longer exists except as a humanitarian institution.

The conception of collective security is something more than just an alliance of nations; it was designed to be an institution to preserve peace by securing justice through law.

I agree with those who have said that there is not any such thing as complete neutrality; or that it is impossible to obtain complete neutrality in the sense of complete impartiality by us through law or by our formulation of foreign policy. The term "neutrality" is of course a misnomer, and I prefer to call this legislation that you are considering, and that I am going to talk about, legislation to keep us out of war. That is, as several of the members of this committee have observed, the main purpose of the so-called neutrality legislation. Our first purpose should be to protect the interests of our own people.

In his book, *Halfway With Roosevelt*, Mr. Ernest Lindley has one chapter which contains a striking parallel. I am very glad to cite Mr. Lindley as an authority, not only because I regard him as one of the ablest of the newspapermen, and one of the keenest and most impartial of the students of international conditions, but also because, like myself, he is a very strong supporter of the New Deal and of this administration. In fact, he is one of the closest friends, among newspapermen, of President Roosevelt.

A significant thing about that book is that it was published nearly 3 years ago, in 1936, and it was designed by Mr. Lindley as a sort of campaign textbook for the use of the supporters of Mr. Roosevelt and the New Deal in the 1936 Presidential campaign. He has one chapter, *Can We Keep Out of War*, and I would like to include that—not the chapter, but I would like to include the reference to that here in the record as one of the citations of my authority. And in the whole book he is supporting, you understand, the Roosevelt, the pro-New Deal, domestic policies. In that chapter, *Can We Keep Out of War*, Mr. Lindley says that the gravest question concerning the Roosevelt administration—and now I am quoting, "is whether or not he will follow the tragic course of Woodrow Wilson."

He draws a very striking parallel between the situation as it existed from 1914 to 1917, and particularly in 1916, with the situation as it existed in 1936, and he almost takes the role of a prophet in predicting the very conditions that now exist, and the apparent misconception now existing of our duty to the rest of the world as we find it in 1939; and he draws this conclusion, and of course it has been drawn by many others, that what brought us into the World War was our trade relations with the Allies, and the interference with that trade.

Wilson never intended to get this country into the World War. I worship the memory of Wilson: I supported his conception, his great plan for promoting justice and for securing international peace, the League of Nations; but the question is whether we are going to learn anything from that tragic era, whether we are going to salvage anything out of our experience in the World War. It is needless for me to recount the price that we paid. What did we gain for that price?

We did not even save the world for democracy. Look at the map of Europe today.

I recall, Mr. Chairman, very pleasantly, appearing before this committee in 1936, on the invitation of the then chairman, Mr. McReynolds, and the very cordial treatment that I received on that occasion. I recall much of the discussion in the study made by this committee preceding the passage of the 1936 neutrality law. I assume that you had some of the same questions before you in your deliberations preceding the passage of the present law. I had some part, some considerable part, in helping to bring about the passage of the beginnings of neutrality legislation in 1935.

I recall that the question was raised in this committee in 1936 as to how the existence of a state of war, where there had been no declaration of war was going to be determined, and the question was raised, and it was asked me, here in this committee, if there would be any difficulty about it, and whether we were going to leave it to one man, to the President, to determine, or whether Congress should determine it; and somebody used the language, and I think I suggested it, that there was not any difficulty in telling when a building was on fire, when the whole street was ablaze, and that it would not be necessary to carry on a great investigation to determine that a state of war existed. I know it was never contemplated at that time, either by this committee or by myself or by Congress, that a war could exist such as Japan is carrying on in China, and there be no proclamation by the President prerequisite to applying the neutrality law which this committee recommended and Congress passed.

And so when witnesses come here and say, and they are only echoing what has been said by the President, and reiterated through some of the newspapers, that neutrality is a failure, my answer is that such failure is because the President himself has not applied it. I grant you that, as Charles A. Beard has said, there is not any such thing as securing complete neutrality in the sense of complete impartiality, and that embargoes and restrictions on trade will apply unequally among different belligerents, in accordance with their several situations, and their own courses of conduct.

It is usually the case as you all must know, that the nation that has control of the seas will probably be penalized by an embargo on arms or other materials and the belligerents who do not control the seas will reap some benefit from an embargo or other restrictions on neutral trade. Again I say our primary purpose, however, should be not to aid any nations, or any combination of nations, but to keep ourselves out of war.

I am glad that the principal resolutions, the bills before this committee, the Pittman Resolution, the Fish Resolution, and the Nye-Clark-Bone Resolution, all have stopped the loophole that was unwittingly left in the 1936 act, and was again left in the 1937 act. So when we hear the statement that the neutrality law has failed, or that it has operated not to help China, as many of us would like to have it do, and that we are not aiding China as we would like to do, the answer to that is, that the present neutrality law has not been applied, because if it had been applied, if it were now being applied, the result which we would like to effect if we could, without taking sides, and without involving ourselves, would be effected, because according to the testimony of all those representing China, those in the best position to know, the present law if applied would operate against Japan, and in favor of China. As it is now, through our

failure to apply the law, we are aiding Japan and injuring China. Under our present policy, or look of policy, because of our failure to apply the Neutrality Act, as some one has well said, we are sending bombs to Japan, and bandages to China.

Now——

Mr. JOHNSON (interposing). Just a moment. I just want to understand. Is it your contention, Mr. Sisson, that the failure to invoke the existing neutrality law is more helpful to Japan than to China, and that if it should be applied it would help China more?

Mr. Sisson. It is just that, as it happens. That is just my contention.

Mr. JOHNSON. You are the first witness who has taken that position, and I thought maybe I misunderstood you.

Mr. Sisson. No. I want to make that very clear, that Japan is receiving a very substantial part of her munitions, and the essentials of war, from the United States. There is some smaller volume, and it is growing much smaller all the time, trickling through to China. Japan has control of the sea. The present condition was bound to happen if we did not embargo war essentials. On the other hand, if we enforced even the present law, it would cramp Japan and stop injuring China.

Mrs. ROGERS. Would you favor an embargo upon the scrap-iron and so forth with Japan?

Mr. Sisson. I would favor applying the law, the existing law. I would favor also amending the existing law if possible, and tightening it and extending it, Mrs. Rogers, so that it would serve notice that so far as we are concerned, we would apply it as impartially as possible, and that we would apply it to all belligerents. I would not favor applying an embargo to Japan alone, but I think the effect would be exactly the same.

Mrs. ROGERS. We would have it on our statute books, and we ought to enforce it.

Mr. Sisson. I think that it is a matter of justice, as well as of law, and I also think that we would, not as our primary objective, but incidentally, be aiding Japan far less and aiding China more.

I am opposed to the Pittman bill, because it is a deliberate and calculated attempt to put us in a position to take sides with Great Britain and France, and while by the pull of my own blood I would like to see the so-called democracies succeed, I do not at all grant that we should have any concern so important as to keep ourselves from again becoming involved as we did in the period from 1914 to 1917.

I am against Hitler. I would like to see Hitler stopped; but I do not believe that we have a right to line ourselves up through any legislation designed for that purpose, nor do I believe it is the safe thing for us to do, even though that legislation is designed for the purpose of aiding the democracies against the totalitarian states.

The issue is not so simple as that. This is not simply a contest in Europe, a line-up between the democracies and the totalitarian states; it is a line-up between the "haves" and the "have-nots." It is a desperate attempt on the part of the nations who want to preserve the status quo and who would like to have us join with them in doing that.

Now, if Europe can't cure her own ills, and you have only to look at the map, as I know the members of this committee have studied it, you have only to look at the map to see what that situation is; you have only to look at the map to see what was brought about in some part through the Treaty of Versailles and what has also been brought about since the Treaty of Versailles through the perversion of the League of Nations from an institution designed to promote justice to an instrument of power politics, and I think you will see that we can't go over to Europe and cure her ills for her, and if anyone wants to call me an isolationist, or say that I am in favor of saving our own selfish skins first, I say yes, our duty is to ourselves and to our own people, before we owe any duty to Great Britain and France.

Mrs. ROGERS. May I ask another question: Do you feel that it would do them any ultimate good if we did go over and try to save them? Would it settle anything?

Mr. Sisson. Well, you say "any good," Mrs. Rogers. Perhaps we might help them as we did in 1917, so far as the result of the contest was concerned, but I do not believe that it would settle anything, and settle it permanently, and settle it right, but it would very likely bring about the greatest evil that could befall us and the rest of the world, it would be very likely to bring to an end the republican form of government in this country. And so I believe that our duty, the greatest service that we can render to the rest of the world, as well as to our own people, is, for the sake of the preservation of our democratic institutions, to keep ourselves strong, to keep ourselves strong economically, but even if it is necessary, to pay some price to keep ourselves out of war; and that is the best service that we can render to Europe, and the rest of the world, as well as to ourselves.

Hitler would not have to be stopped, if Great Britain and France had made and kept the kind of peace that Wilson wanted and believed at first they would. If it had not been Hitler, it would have been some other leader. Hitler, of course, most of us will grant is a monstrosity, perhaps a monster, perhaps a genius, but he is an effect, not a cause. If you read history, if you read Tolstoy's War and Peace, Hitler is a phenomenon bred by the wrongs of the German people. Hitler is not the cause of this situation in Germany; if it had not been Hitler it would have been someone else; it is the repression of the German people, it is the burden of reparations that was thrown upon them, it is the fact that no assistance was given to the Weimar Republic to preserve the feeble beginnings of democracy, but rather the spark of democracy was allowed to become extinguished, and naturally, the German people as they were, encircled and oppressed, and without hope, welcomed Hitler as the first savior that came along.

The Nye-Clark-Bone resolution, in my opinion, is the nearest to the philosophy of keeping ourselves strong, and of keeping ourselves out of war, and of minding our own business; and, as an amendment to the present law, is what I believe most nearly fits the requirements for the preservation of our peace, and for the preservation of our democratic institutions. The Pittman resolution would allow us to follow the same course as we did in 1914-17 and again to be sucked into another World War.

Mr. JOHNSON. Right there, would you just tell us in a few words—we do not have Senate bills over here, just tell us what the Nye bill is, what it would do?

Mr. Sisson. The Nye bill provides for an absolute embargo upon the finding by the President, or the Congress, that a state of war exists. In other words, the power is left to the President, or the Congress, to find when a state of war exists. Upon that finding-----

Mr. JOHNSON (interposing). By either?

Mr. Sisson. Upon that finding by either, and a declaration to that effect, the Nye-Clark-Bone bill automatically applies an embargo to all of the belligerents. There is no possible squinting toward, or danger of selecting the aggressor nations, so far as arms and munitions are concerned. As to the other materials or other articles, the so-called cash-and-carry system applies.

And of course, it forbids the carrying of any goods of any kind to belligerents in American ships, and forbids the extension of any credit to belligerents, to any of the belligerents.

Mr. JOHNSON. About the only thing it would do to change the existing law would be to give the Congress or the President the right to declare that a state of war exists.

Mr. Sisson. But also to apply an absolute embargo on munitions, arms and munitions.

Mr. JOHNSON. That is already the law.

Mr. Sisson. It is not in the Pittman resolution.

Mr. JOHNSON. I am comparing the Nye-Bone-Clark with the present law, and I am trying to see what the difference is, what difference it would make.

Mr. Sisson. Now, the Pittman resolution, in my opinion, gentlemen, would allow us to follow the same course which involved us in the last war. Of course, perhaps it throws out the lure that we would not lose any trade, that we would profit.

Did anybody profit except a few profiteers by the war trade with the Allies, in the last war?

Julius Caesar said in his Commentaries on the Gallic Wars that "men most readily believe that which they wish to believe." Now we are all against war, just as we are all against sin. I take it that this committee is agreed that we are secure against any power or combination of powers that could conceivably come against us at any time within the reasonably anticipated future. We are not in any danger of getting into war through invasion of our own country. I think that we can agree upon that as a premise. Therefore, if we do get into another world war, it will be through our own fault; it will be because too many persons believe that it is inevitable that we must be drawn into the next war; that it cannot be avoided. It will be because of a wrong psychology; it will be because of such things as the Gallup Poll which, in my opinion, has been influenced by statements from men high in this Government, repeated and reiterated in the press until many people have come to accept them without questioning. It will be because of such phrases as "if we are not in a war next fall."

I know that I do not need to admonish this committee that we ought not to be deceived by the wishful thinking of anyone, or the propaganda of any interests. To say that if we do not sell scrap iron to Japan, or if we do not engage in war trade with belligerents, that someone else will furnish the scrap iron which is made into shells to kill Chinese children and Chinese women, to say that if we do not engage in war trade, someone else will, is again an illustration of what I quoted, where the wish follows the thought as expressed by Julius Caesar in his Commentaries.

When you come down to it, it is about the same thing as the psychology of the dope-peddler, who reasons with himself, possibly, that as if he wants to justify himself, that if he does not sell the dope to the dope victim, someone else will.

Again I say, gentlemen, that we cannot cure the ills of Europe. If you were to assume that our 48 States, situated as they are, in juxtaposition as they are, were separate countries, with diverse interests, each of them sovereign and independent, some of them jealous, suspicious, even hating other States, you would have something of the same state of affairs as exists in Europe today; and to believe that we should lend our aid, even our economic aid, in time of war to Great Britain and France, and to believe that they would be able to settle anything and settle it right, and without involving us in it, is again an instance of wishful thinking, and it is contrary to the experience that we have had, and the experience that history should teach us. It is the failure to salvage anything and to learn any lesson from the last war.

I have nearly finished, Mr. Chairman, as to my direct statement. There is one other thing, unless you want me to come back here this afternoon, that I would like to mention, which I think that I can do in a few minutes. I noticed that Mr. Felix Morley, the distinguished editor of the Washington Post, a man whose friendship I was privileged to enjoy when I was here in Congress, a man for whose ability as an editorial writer and for whose services in international affairs I have the greatest respect, in testifying last week before this committee made a statement in which he seemed to cast doubt upon the constitutionality of legislation by Congress providing an embargo or otherwise restricting wartime trade as an interference with the power of the President under the Constitution to administer or negotiate or act as the spokesman of the Federal Government and the Nation in its external affairs.

Mr. Morley very cleverly drew the conclusion, or conveyed the implication that the President had pretty nearly sole control over both the direction and formulation of our foreign policy.

I agree, of course, we all agree, that under the Constitution the President is the organ and the spokesman of the Nation in the negotiation and administration of our foreign relations. But I cannot agree with Mr. Morley in the inference that he apparently drew, and tried to leave here, and has tried to leave with the public, that the power of the President is exclusive and sole as compared with Congress in the formulation of our foreign policy.

I cannot agree, if Mr. Morley meant that, that there is any question, or that there should be any doubt cast upon the constitutionality of an embargo passed by Congress. Congress legislates the policy, and the President applies it. That is the separation of the branches of our Government for which Mr. Morley himself was a great advocate when the question of reforming the Supreme Court was before Congress.

Mr. SHANLEY. May I ask, Mr. Sisson, was that taken from his prepared paper, or was that in the colloquy?

Mr. Sisson. That was taken from his prepared statement as it appeared in the Washington Post on April 21. I have not read the colloquy.

Mr. SHANLEY. May I say for the record, and I know that you want to be fair, but because I developed that thought with him afterward, and we came to the conclusion, even though our own philosophy may be different, that that statement from the *Curtiss-Wright*<sup>1</sup> case, plus the present act, gives the President vast powers.

Mr. Sisson. Unquestionably.

Mr. SHANLEY. And he based it on the finding clause of section 1, and he did not tie it into that any more than his direct statement. I do not believe that he would say the same thing if the finding clause of section 1 of the present act was not there; that is your understanding, too?

Mr. Sisson. Yes, sir.

Mr. SHANLEY. As long as you tie it up to section 1, I agree with you on that.

Mr. Sisson. I just want to say that with respect to the *Curtiss-Wright* case, and of course you gentlemen who are lawyers know—you don't need me to tell you this—that every case stands on its own bottom, in the language of the country lawyer, and to take language out of a case is sometimes and frequently is very misleading. The question in the *Curtiss-Wright* case was not at all the power of the President in contradistinction to the power of Congress, but in the *Curtiss-Wright* case the question was raised as to the constitutionality of the delegation by the Congress to the President of the power to apply or not to apply an embargo with respect to the two South American countries engaged in the conflict. The question was whether Congress had abdicated its own power and contrary to the Constitution had delegated a legislative power to the Executive.

Mr. SHANLEY. May I ask another question there? Of course, I think that he was intending to give notice either to the world or to the group that was here, that the retention of the present act, plus this decision, would be tantamount to saying that the same situation that arises in the Far East might arise in continental Europe; so that the President would have the same power under the present act.

Mr. Sisson. In that I will agree with you.

Mr. SHANLEY. That is all right, yes.

Mr. Sisson. And Mr. Morley also, I might say, quoted some language from John Marshall, and that was language used by Mr. Marshall some time before he became Chief Justice of the Supreme Court, and when he was a Member of this House, in an argument upon the floor of the House of Representatives.

Now, again the statement made by Mr. Marshall and quoted by Mr. Morley is a statement that I will agree with, taken by itself, but I strongly contradict any assumption based upon that, that this Congress has not the power, and complete power, in conjunction of course with the President through his veto power, to legislate foreign policy, to pass an embargo, to lay other restrictions, such other restrictions as the Congress sees fit, not merely for the sole purpose of regulating commerce, but also for the purpose of keeping us out of war.

In the *Curtiss-Wright* case, the very case relied on by Mr. Morley to sustain his contention that the President has sole and unlimited power to formulate foreign policy, the Supreme Court held that the Federal Government has powers in our external affairs which do not depend upon express grants in the Constitution, and the court drew the important distinction in this respect between our internal affairs

<sup>1</sup> See p. 456.



and our external affairs. But in either department of our affairs whether internal or external, it is the Federal Government acting through Congress that formulates the policy of the Nation: And I might point out to Mr. Morley that it is where the Congress has delegated powers to the President without standards to guide him that the court has condemned the act.

Mr. CHIPERFIELD. Right along those lines, where you point out the power of the President and the Congress to formulate our foreign policy, do you feel that other departments other than the State Department and the President and the Congress have any power to formulate our foreign policy, for example, the Department of Commerce, or Agriculture, or something like that, as apparently speaking for us?

Mr. SISSON. I should say not, except as the power is given them as a matter of administration by the Congress.

Mr. BLOOM. In our previous hearings we inserted into the record the decision of the Supreme Court with reference to the *Curtiss-Wright case*, and I think at this time since the question is brought up, with the permission of the committee, that we insert in the record at this point the decision of the Supreme Court in this matter.

Mr. SHANLEY. May I also have permission at this point to put in a statement of John Marshall in the *Robbins case*, which occurs in the Sixth Annuals?

Mr. BLOOM. Without objection, both of them will be inserted in the record at this point.

(The documents above referred to are incorporated into the record as follows:)

#### STATEMENT OF JOHN MARSHALL

The resolution of Mr. Gallatin, calling upon the President for papers in the case of Brigstock and others, tried in New Jersey, was again taken up; when

Mr. Marshall said, that believing, as he did most seriously, that in a Government constituted like that of the United States, much of the public happiness depended, not only on its being rightly administered, but on the measures of administration being rightly understood—on rescuing public opinion from those numerous prejudices with which so many causes might combine to surround it, he could not but have been highly gratified with the very eloquent, and what was still more valuable, the very able and very correct argument which had been delivered by the gentleman from Delaware.

Gentlemen have cited and relied on that clause in the Constitution, which enables Congress to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; together with an act of Congress, declaring the punishment of those offenses; as transferring the whole subject to the courts. But that clause can never be construed to make to the Government a grant of power, which the people making it do not themselves possess. It has already been shown that the people of the United States have no jurisdiction over offenses committed on board a foreign ship against a foreign nation. Of consequence, in framing a government for themselves, they cannot have passed this jurisdiction to that government. The law, therefore, cannot act upon the case.

The Executive is not only the constitutional department, but seems to be the proper department to which the power in question may most wisely and most safely be confided.

The department which is entrusted with the whole foreign intercourse of the Nation, with the negotiation of all its treaties, with the power of demanding a reciprocal performance of the article, which is accountable to the Nation for the violation of its engagements with foreign nations, and for the consequences resulting from such violation, seems the proper department to be entrusted with the execution of a national contract like that under consideration.

When, therefore, the gentleman from Pennsylvania has established, that in delivering up Thomas Nash, points of law were decided by the President he has established a position which in no degree whatever aids his argument.

The case was in its nature a national demand made upon the Nation. The parties were two nations. They cannot come into court to litigate their claims, nor can a court decide on them. Of consequence, the demand is not a case for judicial cognizance.

The President is the sole organ of the Nation in its external relations, and its sole representative with foreign nations. Of consequence the demand of a foreign nation can only be made on him.

He possesses the whole Executive power. He holds and directs the force of the Nation. Of consequence, any act to be performed by the force of the Nation is to be performed through him.

He is charged to execute the laws. A treaty is declared to be a law. He must then execute a treaty, where he, and he alone, possesses the means of executing it.

The treaty, which is a law, enjoins the performance of a particular object. The person who is to perform this object is marked out by the Constitution since the person is named who conducts the foreign intercourse, and is to take care that the laws be faithfully executed. The means by which it is to be performed, the force of the Nation, are in the hands of this person. Ought not this person to perform the object, although the particular mode of using the means has not been prescribed? Congress, unquestionably, may prescribe the mode, and Congress may devolve on others the whole execution of the contract; but, till this be done, it seems the duty of the executive department to execute the contract by any means it possesses.

The gentleman from Pennsylvania contends that, although this should be properly an Executive duty, yet it cannot be performed until Congress shall direct the mode of performance. He says that, although the jurisdiction of the courts is extended by the Constitution to all cases of admiralty and maritime jurisdiction, yet if the courts had been created without any express assignment of jurisdiction, they could not have taken cognizance of cases expressly allotted to them by the Constitution. The Executive, he says, can, no more than courts, supply a legislative omission.

#### SUPREME COURT OF THE UNITED STATES

NO. 98.—OCTOBER TERM, 1936

THE UNITED STATES OF AMERICA, APPELLANT, *v.* CURTISS-WRIGHT EXPORT CORPORATION, CURTISS AEROPLANE & MOTOR COMPANY, INC., AND BARR SHIPPING CORPORATION ET AL.

Appeal from the District Court of the United States for the Southern District of New York

[December 21, 1936]

Mr. Justice Sutherland delivered the opinion of the Court.

On January 27, 1936, an indictment was returned in the court below, the first count of which charges that appellees, beginning with the 29th day of May, 1934, conspired to sell in the United States certain arms of war, namely 15 machine guns, to Bolivia, a country then engaged in armed conflict in the Chaco, in violation of the joint resolution of Congress approved May 28, 1934, and the provisions of a proclamation issued on the same day by the President of the United States pursuant to authority conferred by section 1 of the resolution. In pursuance of the conspiracy, the commission of certain overt acts was alleged, details of which need not be stated. The joint resolution (c. 365, 48 Stat. 811) follows:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That if the President finds that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reestablishment of peace between those countries, and if after consultation with the governments of other American Republics and with their cooperation, as well as that of such other governments as he may deem necessary, he makes proclamation to that effect, it shall be unlawful to sell, except under such limitations and exceptions as the President prescribes, any arms or munitions of war in any place in the United States to the countries now engaged in that armed conflict, or to any person, company, or association acting in the interest of either country, until otherwise ordered by the President or by Congress.*

"Sec. 2. Whoever sells any arms or munitions of war in violation of section 1 shall, on conviction, be punished by a fine not exceeding \$10,000 or by imprisonment not exceeding 2 years, or both."

The President's proclamation (48 Stat. 1744), after reciting the terms of the joint resolution, declares:

"Now, Therefore, I, Franklin D. Roosevelt, President of the United States of America, acting under and by virtue of the authority conferred in me by the said joint resolution of Congress, do hereby declare and proclaim that I have found that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reestablishment of peace between those countries, and that I have consulted with the governments of other American Republics and have been assured of the cooperation of such governments as I have deemed necessary as contemplated by the said joint resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the joint resolution above set forth, hereby made applicable to Bolivia and Paraguay, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.

"And I do hereby enjoin upon all officers of the United States charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

"And I do hereby delegate to the Secretary of State the power of prescribing exceptions and limitations to the application of the said joint resolution of May 28, 1934, as made effective by this my proclamation issued thereunder."

On November 14, 1935, this proclamation was revoked (49 Stat. 3480), in the following terms:

"Now, therefore, I, Franklin D. Roosevelt, President of the United States of America, do hereby declare and proclaim that I have found that the prohibition of the sale of arms and munitions of war in the United States to Bolivia or Paraguay will no longer be necessary as a contribution to the reestablishment of peace between those countries, and the above-mentioned proclamation of May 28, 1934, is hereby revoked as to the sale of arms and munitions of war to Bolivia or Paraguay from and after November 29, 1935, provided, however, that this action shall not have the effect of releasing or extinguishing any penalty, forfeiture or liability incurred under the aforesaid proclamation of May 28, 1934, or the joint resolution of Congress approved by the President on the same date; and that the said proclamation and joint resolution shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability."

Appellees severally demurred to the first count of the indictment on the grounds: (1) That it did not charge facts sufficient to show the commission by appellees of any offense against any law of the United States; (2) that this count of the indictment charges a conspiracy to violate the joint resolution and the Presidential proclamation, both of which had expired according to the terms of the joint resolution by reason of the revocation contained in the Presidential proclamation of November 14, 1935, and were not in force at the time when the indictment was found. The points urged in support of the demurrers were, first, that the joint resolution effects an invalid delegation of legislative power to the Executive; second, that the joint resolution never became effective because of the failure of the President to find essential jurisdictional facts; and third, that the second proclamation operated to put an end to the alleged liability under the joint resolution.

The court below sustained the demurrers upon the first point, but overruled them on the second and third points. 14 F. Supp. 230. The Government appealed to this court under the provisions of the Criminal Appeals Act of March 2, 1907, 34 Stat. 1246, as amended, U. S. C. title 18, § 682. That act authorizes the United States to appeal from a district court direct to this court in criminal cases where, among other things, the decision sustaining a demurrer to the indictment or any count thereof is based upon the invalidity or construction of the statute upon which the indictment is founded.

*First.* It is contended that by the joint resolution, the going into effect and continued operation of the resolution was conditioned (a) upon the President's judgment as to its beneficial effect upon the reestablishment of peace between the countries engaged in armed conflict in the Chaco; (b) upon the making of a proclamation, which was left to his unfettered discretion, thus constituting an

attempted substitution of the president's will for that of Congress; (c) upon the making of a proclamation putting an end to the operation of the resolution, which again was left to the President's unfettered discretion; and (d) further, that the extent of its operation in particular cases was subject to limitation and exception by the President, controlled by no standard. In each of these particulars, appellees urge that Congress abdicated its essential functions and delegated them to the Executive.

Whether, if the joint resolution had related solely to internal affairs it would be open to the challenge that it constituted an unlawful delegation of legislative power to the Executive, we find it unnecessary to determine. The whole aim of the resolution is to affect a situation entirely external to the United States, and falling within the category of foreign affairs. The determination which we are called to make, therefore, is whether the joint resolution, as applied to that situation, is vulnerable to attack under the rule that forbids a delegation of the law-making power. In other words, assuming (but not deciding) that the challenged delegation, if it were confined to internal affairs, would be invalid, may it nevertheless be sustained on the ground that its exclusive aim is to afford a remedy for a hurtful condition within foreign territory?

It will contribute to the elucidation of the question if we first consider the differences between the power of the Federal Government in respect of foreign or external affairs and those in respect of domestic or internal affairs. That there are differences between them, and that those differences are fundamental, may not be doubted.

The two classes of powers are different, both in respect of their origin and their nature. The broad statement that the Federal Government can exercise no powers except those specifically enumerated in the Constitution, and such implied powers as are necessary and proper to carry into effect the enumerated powers, is categorically true only in respect of our internal affairs. In that field, the primary purpose of the Constitution was to carve from the general mass of legislative powers then possessed by the States such portions as it was thought desirable to vest in the Federal Government, leaving those not included in the enumeration still in the States. *Carter v. Carter Coal Co.*, 208 U. S. 238, 204. That this doctrine applies only to powers which the States had, is selfevident. And since the States severally never possessed international powers, such powers could not have been carved from the mass of State powers but obviously were transmitted to the United States from some other source. During the colonial period, those powers were possessed exclusively by and were entirely under the control of the Crown. By the Declaration of Independence, "the Representatives of the United States of America" declared the United [not the several] Colonies to be free and independent States, and as such to have "full Power to levy War, conclude Peace, contract Alliances, establish Commerce and to do all other Acts and Things which Independent States may of right do."

As a result of the separation from Great Britain by the Colonies, acting as a unit, the powers of external sovereignty passed from the Crown not to the Colonies severally, but to the Colonies in their collective and corporate capacity as the United States of America. Even before the Declaration, the Colonies were a unit in foreign affairs, acting through a common agency—namely, the Continental Congress, composed of Delegates from the Thirteen Colonies. That agency exercised the powers of war and peace, raised an army, created a navy, and finally adopted the Declaration of Independence. Rulers come and go; governments end and forms of government change; but sovereignty survives. A political society cannot endure without a supreme will somewhere. Sovereignty is never held in suspense. When, therefore, the external sovereignty of Great Britain in respect of the colonies ceased, it immediately passed to the Union. See *Penhallow v. Doane*, 3 Dall. 54, 80-81. That fact was given practical application almost at once. The treaty of peace, made on September 23, 1783, was concluded between his Britannic Majesty and the "United States of America." 8 Stat.—European Treaties—80.

The Union existed before the Constitution, which was ordained and established among other things to form "a more perfect Union." Prior to that event, it is clear that the Union, declared by the Articles of Confederation to be "perpetual," was the sole possessor of external sovereignty, and in the Union it remained without change save insofar as the Constitution in express terms qualified its exercise. The Framers' Convention was called and exerted its powers upon the irrefutable postulate that though the States were several their people in respect of foreign affairs were one. Compare *The Chinese Exclusion Case*, 130 U. S. 581, 604, 606. In that convention, the entire absence of State power to deal with those affairs was thus forcefully stated by Rufus King:

"The States were not 'sovereigns' in the sense contended for by some. They did not possess the peculiar features of sovereignty—they could not make war, nor peace, nor alliances, nor treaties. Considering them as political beings, they were dumb, for they could not speak to any foreign sovereign whatever. They were deaf, for they could not hear any propositions from such sovereign. They had not even the organs or faculties of defence or offence, for they could not of themselves raise troops, or equip vessels, for war." 5 Elliott's Debates 212.<sup>1</sup>

It results that the investment of the Federal Government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution. The powers to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the Federal Government as necessary concomitants of nationality. Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory unless in respect of our own citizens (see *American Banana Co. v. United Fruit Co.*, 213 U. S. 347, 356); and operations of the Nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law. As a member of the family of nations, the right and power of the United States in that field are equal to the right and power of the other members of the international family. Otherwise, the United States is not completely sovereign. The power to acquire territory by discovery and occupation (*Jones v. United States*, 137 U. S. 202, 212), the power to expel undesirable aliens (*Fong Yue Ting v. United States*, 149 U. S. 698, 705 *et seq.*), the power to make such international agreements as do not constitute treaties in the constitutional sense (*Altman & Co. v. United States*, 224 U. S. 583, 600-601; Crandall, *Treaties, Their Making and Enforcement*, 2d ed., p. 102 and note 1), none of which is expressly affirmed by the Constitution, nevertheless exist as inherently inseparable from the conception of nationality. This the court recognized, and in each of the cases cited found the warrant for its conclusions not in the provisions of the Constitution, but in the law of nations.

In *Burnet v. Brooks*, 283 U. S. 378, 396, we said, "As a nation with all the attributes of sovereignty, the United States is vested with all the powers of government necessary to maintain an effective control of international relations." Cf. *Carter v. Carter Coal Co.*, *supra*, p. 295.

Not only, as we have shown, is the Federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate, and manifold problems, the President alone has the power to speak or listen as a representative of the Nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, "The President is the sole organ of the Nation in its external relations, and its sole representative with foreign nations." *Annals*, 6th Cong., col. 613. The Senate Committee on Foreign Relations at a very early day in our history (February 15, 1816), reported to the Senate, among other things, as follows:

"The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success. For his conduct he is responsible to the Constitution. The committee considers this responsibility the surest pledge for the faithful discharge of his duty. They think the interference of the Senate in the direction of foreign negotiations calculated to diminish that responsibility and thereby to impair the best security for the national safety. The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch." 8 U. S. Sen. Reports Comm. on Foreign Relations, p. 24.

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary, and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be

<sup>1</sup> In general confirmation of the foregoing views, see 1 Story on the Constitution, 4th ed., §§ 198-217. and especially §§ 210, 211, 213, 214, 215 (p. 153), 216

exercised in subordination to the applicable provisions of the Constitution. It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. Moreover, he, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has his confidential sources of information. He has his agents in the form of diplomatic, consular, and other officials. Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results. Indeed, so clearly is this true that the first President refused to accede to a request to lay before the House of Representatives the instructions, correspondence, and documents relating to the negotiation of the Jay treaty—a refusal the wisdom of which was recognized by the House itself and has never since been doubted. In his reply to the request, President Washington said:

"The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate, the principle on which that body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand and to have as a matter of course all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent." 1 Messages and Papers of the Presidents, p. 194.

The marked difference between foreign affairs and domestic affairs in this respect is recognized by both Houses of Congress in the very form of their requisitions for information from the executive departments. In the case of every department except the Department of State, the resolution directs the official to furnish the information. In the case of the State Department, dealing with foreign affairs, the President is requested to furnish the information "if not incompatible with the public interest." A statement that to furnish the information is not compatible with the public interest rarely, if ever, is questioned.

When the President is to be authorized by legislation to act in respect of a matter intended to affect a situation in foreign territory, the legislator properly bears in mind the important consideration that the form of the President's action—or, indeed, whether he shall act at all—may well depend, among other things, upon the nature of the confidential information which he has or may thereafter receive, or upon the effect which his action may have upon our foreign relations. This consideration, in connection with what we have already said on the subject, discloses the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed. As this court said in *Mackenzie v. Hare*, 239 U. S. 299, 311, "As a Government, the United States is invested with all the attributes of sovereignty. As it has the character of nationality it has the powers of nationality, especially those which concern its relations and intercourse with other countries. *We should hesitate long before limiting or embarrassing such powers.*" [Italics supplied.]

In the light of the foregoing observations, it is evident that this court should not be in haste to apply a general rule which will have the effect of condemning legislation like that under review as constituting an unlawful delegation of legislative power. The principles which justify such legislation find overwhelming support in the unbroken legislative practice which has prevailed almost from the inception of the National Government to the present day.

Let us examine, in chronological order, the acts of legislation which warrant this conclusion:

The act of June 4, 1794, authorized the President to lay, regulate, and revoke embargoes. He was "authorized" "whenever, in his opinion, the public safety shall so require" to lay the embargo upon all ships and vessels in the ports of the United States, including those of foreign nations "under such regulations as the circumstances of the case may require, and to continue or revoke the same

whenever he shall think proper." C. 41, 1 Stat. 372. A prior joint resolution of May 7, 1794 (1 Stat. 401), had conferred *unqualified* power on the President to grant clearances, notwithstanding an existing embargo, to ships or vessels belonging to citizens of the United States bound to any port beyond the Cape of Good Hope.

The act of March 3, 1795 (c. 53, 1 Stat. 444), gave the President authority to permit the exportation of arms, cannon, and military stores, the law prohibiting such exports to the contrary notwithstanding, the only prescribed guide for his action being that such exports should be in "cases connected with the security of the commercial interest of the United States, and for public purposes only."

By the act of June 13, 1798 (c. 53, § 5, 1 Stat. 566), it was provided that if the Government of France "shall clearly disavow, and shall be found to refrain from the aggressions, depredations, and hostilities" therefore maintained against vessels and property of the citizens of the United States, "in violation of the faith of treaties, and the laws of nations, and shall thereby acknowledge the just claims of the United States to be considered as in all respects neutral, . . . it shall be lawful for the President of the United States, being well ascertained of the premises, to remit and discontinue the prohibitions and restraints hereby enacted and declared; and he shall be, and is hereby authorized to make proclamation thereof accordingly."

By § 4 of the act of February 9, 1799 (c. 2, 1 Stat. 615), it was made "lawful" for the President, "if he shall deem it expedient and consistent with the interest of the United States," by order to remit certain restraints and prohibitions imposed by the act with respect to the French Republic, and also to revoke any such order "whenever, in his opinion, the interest of the United States shall require."

Similar authority, qualified in the same way, was conferred by § 6 of the act of February 7, 1800, c. 10, 2 Stat. 9.

Section 5 of the act of March 3, 1805 (c. 41, 2 Stat. 341), made it lawful for the President, whenever an armed vessel entering the harbors or waters within the jurisdiction of the United States and required to depart therefrom should fail to do so, not only to employ the land and naval forces to compel obedience, but "if he shall think it proper, it shall be lawful for him to forbid, by proclamation, all intercourse with such vessel, and with every armed vessel of the same nation, and the officers and crew thereof; to prohibit all supplies and aid from being furnished them" and to do various other things connected therewith. Violation of the President's proclamation was penalized.

On February 28, 1806, an act was passed (c. 9, 2 Stat. 351) to suspend commercial intercourse between the United States and certain parts of the Island of Santo Domingo. A penalty was prescribed for its violation. Notwithstanding the positive provisions of the act, it was by § 5 made "lawful" for the President to remit and discontinue the restraints and prohibitions imposed by the act at any time "if he shall deem it expedient and consistent with the interests of the United States" to do so. Likewise in respect of the Nonintercourse Act of March 1, 1809, (c. 24, 2 Stat. 528); the President was "authorized" (§ 11, p. 530), in case either of the countries affected should so revoke or modify her edicts "as that they shall cease to violate the neutral commerce of the United States," to proclaim the fact, after which the suspended trade might be renewed with the nation so doing.

Practically every volume of the United States Statutes contains one or more acts or joint resolutions of Congress authorizing action by the President in respect of subjects affecting foreign relations, which either leave the exercise of the power to his unrestricted judgment, or provide a standard far more general than that which has always been considered requisite with regard to domestic affairs. Many, though not all, of these acts are designated in the footnote.\*

\* Thus, the President has been broadly "authorized" to suspend embargo acts passed by Congress, "if in his judgment the public interest should require it" (Act of December 19, 1806, c. 1, § 3, 2 Stat. 411), or if, "in the judgment of the President," there has been such suspension of hostilities abroad as may render commerce of the United States sufficiently safe. Act of April 22, 1808, c. 52, 2 Stat. 490. See also, Act of March 3, 1817, c. 30, § 2, 3 Stat. 361. Compare, but as to reviving an embargo act, the Act of May 1, 1810, c. 30, § 4, 2 Stat. 605.

Likewise, Congress has passed numerous acts laying tonnage and other duties on foreign ships, in retaliation for duties enforced on United States vessels, but providing that if the President should be satisfied that the countervailing duties were repealed or abolished, then he might by proclamation suspend the duties as to vessels of the nation so acting. Thus, the President has been "authorized" to proclaim the suspension. Act of January 7, 1824, c. 4, § 4, 4 Stat. 3; Act of May 24, 1828, c. 111, 4 Stat. 308; Act of July 42, 1807, c. 13, 30 Stat. 214. Or it has been provided that the suspension should take effect whenever the President "shall be satisfied" that the discriminating duties have been abolished. Act of March 3, 1815, c. 77, 3 Stat. 224; Act of May 31, 1830, c. 219, § 2, 4 Stat. 425. Or that the President "may direct" that the tonnage duty shall cease to be levied in such circumstances. Act of July 13, 1832, c. 207, § 3, 4 Stat. 678. And compare Act of June 26, 1854, c. 121, § 14, 28 Stat. 83, 87.

It well may be assumed that these legislative precedents were in mind when Congress passed the joint resolutions of April 22, 1808, 30 Stat. 730; March 14, 1912, 37 Stat. 630; and January 31, 1922, 42 Stat. 361, to prohibit the export of coal or other war material. The resolution of 1808 authorized the President "in his discretion, and with such limitations and exceptions as shall seem to him expedient" to prohibit such exportations. The striking identity of language found in the second resolution mentioned above and in the one now under review will be seen upon comparison. The resolution of March 14, 1912, provides:

"That whenever the President shall find that in any American country conditions of domestic violence exist which are promoted by the use of arms or munitions of war procured from the United States, and shall make proclamation thereof, it shall be unlawful to export except under such limitations and exceptions as the President shall prescribe any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President of by Congress.

"Sec. 2. That any shipment of material hereby declared unlawful after such a proclamation shall be punishable by fine not exceeding ten thousand dollars, or imprisonment not exceeding two year, or both."

The third resolution is in substantially the same terms, but extends to any country in which the United States exercises extraterritorial jurisdiction, and provides for the President's action not only when conditions of domestic violence exist which are promoted, but also when such conditions *may be* promoted, by the use of such arms or munitions of war.

We had occasion to review these embargo and kindred acts in connection with an exhaustive discussion of the general subject of delegation of legislative power in a recent case, *Panama Refining Co. v. Ryan*, 293 U. S. 388, 421-422, and in justifying such acts, pointed out that they confided to the President "an authority which was cognate to the conduct by him of the foreign relations of the government."

The result of holding that the joint resolution here under attack is void and unenforceable as constituting an unlawful delegation of legislative power would be to stamp this multitude of comparable acts and resolutions as likewise invalid. And while this court may not, and should not, hesitate to declare acts of Congress, however many times repeated, to be unconstitutional if beyond all rational doubt it finds them to be so, an impressive array of legislation such as we have just set forth, enacted by nearly every congress from the beginning of our national existence to the present day, must be given unusual weight in the process of reaching a correct determination of the problem. A legislative practice such as we have here, evidenced not by only occasional instances, but marked by the movement of a steady stream for a century and a half of time, goes a long way in the direction of proving the presence of unassailable ground for the constitutionality of the practice, to be found in the origin and history of the power involved, or in its nature, or in both combined.

Other acts, for retaliation against discriminations as to United States commerce; have placed broad powers in the hands of the President, "authorizing" even the total exclusion of vessels of any foreign country so offending (Act of June 10, 1880, c. 421, § 17, 21 Stat. 70, 83), or the increase of duties on its goods or their total exclusion from the United States (Act of June 17, 1930, c. 407, § 388, 46 Stat. 590, 704), or the exclusion of its goods or the detention, in certain circumstances, of its vessels, or the exclusion of its vessels or nationals from privileges similar to those which it has denied to citizens of the United States (Act of September 8, 1916, c. 403, §§ 804-806, 39 Stat. 756, 760-800). As to discriminations by particular countries, it has been made lawful for the President, by proclamation, which he "may in his discretion, apply . . . to any part or all" of the subjects named, to exclude certain goods of the offending country, or its vessels. Act of March 3, 1887, c. 339, 24 Stat. 475. And compare Act of July 26, 1892, c. 248, 27 Stat. 267. Compare, also, authority given the Postmaster General to reduce or enlarge rates of foreign postage, among other things, for the purpose of counteracting any adverse measures affecting our postal intercourse with foreign countries. Act of March 3, 1881, c. 20, § 2, 21 Stat. 587, 589.

The President has been "authorized" to suspend an act providing for the exercise of judicial functions by ministers, consuls and other officers of the United States in the Ottoman dominions and Egypt whenever he "shall receive satisfactory information" that the governments concerned have organized tribunals likely to secure to United States citizens the same impartial justice enjoyed under the judicial functions exercised by the United States officials. Act of March 23, 1874, c. 62, 18 Stat. 21.

Congress has also passed acts for the enforcement of treaties or conventions, to be effective only upon proclamation of the President. Some of them may be noted which "authorize" the President to make proclamation when he shall be "satisfied" or shall receive "satisfactory evidence" that the other nation has complied: Act of August 8, 1854, c. 260, §§ 1, 2, 10 Stat. 687; Act of March 1, 1873, c. 213, §§ 1, 2, 17 Stat. 489; Act of August 16, 1876, c. 260, 19 Stat. 300; Act of December 17, 1903, c. 1, § 1, 33 Stat. 3. Cf. Act of June 11, 1894, c. 116, § 1, 18 Stat. 191; Act of February 21, 1895, c. 150, 27 Stat. 472.

Where appropriate, Congress has provided that violation of the President's proclamations authorized by the foregoing acts shall be penalized. See, e. g., Act of June 19, 1896; Act of March 8, 1887; Act of September 8, 1916; Act of June 17, 1930—all *supra*.



In *The Laura*, 114 U. S. 411, 416, this court answered a challenge to the constitutionality of a statute authorizing the Secretary of the Treasury to remit or mitigate fines and penalties in certain cases, by repeating the language of a very early case (*Stuart v. Laird*, 1 Cranch 209, 309) that the long practice and acquiescence under the statute was a "practical exposition \* \* \* too strong and obstinate to be shaken or controlled." Of course, the question is at rest, and ought not now to be disturbed." In *Lithographic Co. v. Sarony*, 111 U. S. 53, 57, the constitutionality of R. S. § 4952, conferring upon the author, inventor, designer or proprietor of a photograph certain rights, was involved. Mr. Justice Miller, speaking for the court, disposed of the point by saying: "The construction placed upon the Constitution by the first act of 1790, and the act of 1802, by the men who were contemporary with its formation, many of whom were members of the convention which framed it, is of itself entitled to very great weight, and when it is remembered that the rights thus established have not been disputed during a period of nearly a century, it is almost conclusive."

In *Field v. Clark*, 143 U. S. 649, 691, this court declared that " \* \* \* the practical construction of the Constitution, as given by so many acts of Congress, and embracing almost the entire period of our national existence, should not be overruled, unless upon a conviction that such legislation was clearly incompatible with the supreme law of the land." The rule is one which has been stated and applied many times by this court. As examples, see *Ames v. Kansas*, 111 U. S. 449, 469; *McCulloch v. Maryland*, 4 Wheat. 316, 401; *Downes v. Bidwell*, 182 U. S. 244, 286.

The uniform, long-continued and undisputed legislative practice just disclosed rests upon an admissible view of the Constitution which, even if the practice found far less support in principle than we think it does, we should not feel at liberty at this late day to disturb.

We deem it unnecessary to consider, *seriatim*, the several clauses which are said to evidence the unconstitutionality of the Joint Resolution as involving an unlawful delegation of legislative power. It is enough to summarize by saying that, both upon principle and in accordance with precedent, we conclude there is sufficient warrant for the broad discretion vested in the President to determine whether the enforcement of the statute will have a beneficial effect upon the reestablishment of peace in the affected countries; whether he shall make proclamation to bring the resolution into operation; whether and when the resolution shall cease to operate and to make proclamation accordingly; and to prescribe limitations and exceptions to which the enforcement of the resolution shall be subject.

*Second.* The second point raised by the demurrer was that the joint resolution never became effective because the President failed to find essential jurisdictional facts; and the third point was that the second proclamation of the President operated to put an end to the alleged liability of appellees under the joint resolution. In respect of both points, the court below overruled the demurrer, and thus far sustained the Government.

The Government contends that upon an appeal by the United States under the Criminal Appeals Act from a decision holding an indictment bad, the jurisdiction of the Court does not extend to questions decided in favor of the United States, but that such questions may only be reviewed in the usual way after conviction. We find nothing in the words of the statute or in its purposes which justify this conclusion. The demurrer in the present case challenges the validity of the statute upon three separate and distinct grounds. If the court below had sustained the demurrer without more, an appeal by the Government necessarily would have brought here for our determination all of these grounds, since in that case the record would not have disclosed whether the Court considered the statute invalid upon one particular ground or upon all of the grounds alleged. The judgment of the lower court is that the statute is invalid. Having held that this judgment cannot be sustained upon the particular ground which that court assigned, it is now open to this Court to inquire whether or not the judgment can be sustained upon the rejected grounds which also challenge the validity of the statute and, therefore, constitute a proper subject of review by this Court under the Criminal Appeals Act. *United States v. Hastings* (206 U. S. 188, 192).

In *Langnes v. Green* (282 U. S. 531), where the decree of a district court had been assailed upon two grounds and the circuit court of appeals had sustained the attack upon one of such grounds only, we held that a respondent in certiorari might nevertheless urge in this Court in support of the decree the grounds which the intermediate appellate court had rejected. That principle is applicable here.

We proceed, then, to a consideration of the second and third grounds of the demurrers which, as we have said, the court below rejected.

1. The Executive proclamation recites, "I have found that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reestablishment of peace between those countries, and that I have consulted with the governments of other American Republics and have been assured of the cooperation of such governments as I have deemed necessary as contemplated by the said joint resolution." This finding satisfies every requirement of the joint resolution. There is no suggestion that the resolution is fatally uncertain or indefinite; and a finding which follows its language, as this finding does, cannot well be challenged as insufficient.

But appellees, referring to the words which we have italicized above, contend that the finding is insufficient because the President does not declare that the cooperation of such governments as he deemed necessary included any American republic and, therefore the recital contains no affirmative showing of compliance in this respect with the joint resolution. The criticism seems to us wholly wanting in substance. The President recites that he has consulted with the governments of other American republics, and that he has been assured of the cooperation of such governments as he deemed necessary as contemplated by the joint resolution. These recitals, construed together, fairly include within their meaning American republics.

2. The second proclamation of the President, revoking the first proclamation, it is urged, had the effect of putting an end to the joint resolution, and in accordance with a well settled rule, no penalty could be enforced or punishment inflicted thereafter for an offense committed during the life of the joint resolution in the absence of a provision in the resolution to that effect. There is no doubt as to the general rule or as to the absence of a saving clause in the joint resolution. But is the case presented one which makes the rule applicable?

It was not within the power of the President to repeal the joint resolution; and his second proclamation did not purport to do so. It "revoked" the first proclamation; and the question is, did the revocation of the proclamation have the effect of abrogating the resolution or of precluding its enforcement insofar as that involved the prosecution and punishment of offenses committed during the life of the first proclamation? We are of opinion that it did not.

Prior to the first proclamation, the joint resolution was an existing law, but dormant, awaiting the creation of a particular situation to render it active. No action or lack of action on the part of the President could destroy its potentiality. Congress alone could do that. The happening of the designated events—namely, the finding of certain conditions and the proclamation by the President—did not call the law into being. It created the occasion for it to function. The second proclamation did not put an end to the law or affect what had been done in violation of the law. The effect of the proclamation was simply to remove for the future, a condition of affairs which admitted of its exercise.

We should have had a different case if the joint resolution had expired by its own terms upon the issue of the second proclamation. Its operative force, it is true, was limited to the period of time covered by the first proclamation. And when the second proclamation was issued, the resolution ceased to be a rule for the future. It did not cease to be the law for the antecedent period of time. The distinction is clearly pointed out by the Superior Court of Judicature of New Hampshire in *Stevens v. Dimond*, 6 N. H. 330, 332, 333. There, a town bylaw provided that if certain animals should be found going at large between the first day of April and the last day of October, etc., the owner would incur a prescribed penalty. The trial court directed the jury that the bylaw, being in force for a year only, had expired so that the defendant could not be called upon to answer for a violation which occurred during the designated period. The State appellate court reversed, saying that when laws "expire by their own limitation, or are repealed, they cease to be the law in relation to the past, as well as the future, and can no longer be enforced in any case. No case, is, however, to be found in which it was ever held before that they thus ceased to be law, unless they expired by express limitation in themselves, or were repealed. It has never been decided that they cease to be law, merely because the time they were intended to regulate had expired. \* \* \* A very little consideration of the subject will convince anyone that a limitation of the time to which a statute is to apply, is a very different thing from the limitation of the time a statute is to continue in force."

The first proclamation of the President was in force from the 28th day of May 1934, to the 14th day of November 1935. If the joint resolution had in no way depended upon Presidential action, but had provided explicitly that, at any time between May 28, 1934, and November 14, 1935, it should be unlawful to sell arms or munitions of war to the countries engaged in armed conflict in the Chaco, it

certainly could not be successfully contended that the law would expire with the passing of the time fixed in respect of offenses committed during the period.

The judgment of the court below must be reversed and the cause remanded for further proceedings in accordance with the foregoing opinion.

*It is so ordered.*

Mr. Justice McREYNOLDS does not agree. He is of opinion that the court below reached the right conclusion and its judgment ought to be affirmed.

A true copy.

Test:

*Clerk, Supreme Court, U. S.*

Mr. Sisson. I might say one word further at this point, and perhaps it is necessary here, that that question, the power of the President, in conjunction with the power of the Congress, or the two powers in relation to each other, are very much the same, somewhat comparable, with respect to our tariff, and with respect to reciprocal trade treaties.

The Congress legislates the policy, the broad policy, and the President is given certain powers by the Congress to apply that policy, and to make certain modifications but only in accordance with standards laid down by the Congress.

Therefore I want to contradict just as positively as I can, any implication by Mr. Morley and I do not question Mr. Morley's fairness, his attempted fairness—but I want to contradict just as strongly as I am able, any implication that this Congress has not the power to provide for embargoes or other restrictions upon foreign commerce for the purpose of keeping us out of war. Nor is there any doubt that should be cast upon the constitutionality of the powers that are to be exercised by this Congress in formulating foreign policy, and in passing so-called neutrality legislation.

Mr. SCHIFFLER. Mr. Sisson, I take it from your statement that the one thing that stands out more prominently than any other, having for its object the preservation of the peace, is the provisions of the Nye-Bone-Clark bill, is that correct?

Mr. Sisson. Yes. With respect to embargoes on arms and munitions, particularly, that is perhaps one of the most important differences between that and the Pittman bill.

Mr. SCHIFFLER. That of all of the legislation that you have examined before this committee or the Senate committee, having the same subject under study, that is the one thing that will attain what we are directly interested in obtaining, and that is the preservation of the peace?

Mr. Sisson. That is the Nye-Bone-Clark bill, I would say, so far as the bills pending either here or in the Senate committee. But bear in mind, however, that the Nye-Clark-Bone bill is offered as an amendment to the present law, that it is to be taken in conjunction with the present law.

Mr. BURGIN. Mr. Sisson, it is very illuminating to hear this discourse, and I would like to ask if you think that the provisions of the Neutrality Act, if it had been applied in the East to both countries, that is both to China and Japan, would that not have been the case under the existing law?

Mr. Sisson. It should have been applied; yes; under the existing law, and the existing law was adequate for that purpose; yes. It is adequate for that purpose.

Mr. BURGIN. If it was applied now to Japan because she is a treaty breaker, would that have a tendency to provoke a war?

Mr. Sisson. I think that it would. I am not in favor of giving the President—and I am glad that you raised that question—or anyone else the power to single out an aggressor.

Mr. BURGIN. Well, then, you would advocate an amendment to that, then, would you not?

Mr. Sisson. You mean an amendment to the present law?

Mr. BURGIN. Yes.

Mr. Sisson. I would advocate an amendment to the present law stopping the loophole with respect to the power to find that a state of war exists; yes, sir; I say that that should be either the President or the Congress, so that if the President fails to make that finding, and the Congress finds that such a finding should be made, the Congress will exercise it.

Mr. BLOOM. Mr. Sisson, do you not think that it is rather a dangerous thing to do, for anyone to attempt to name an aggressor nation?

Mr. Sisson. Yes, Mr. Chairman, I do. I think it is a very dangerous thing, and one of the things most likely, in conjunction with trade relations, war trade relations with belligerents, one of the things most likely to draw us into war.

Mr. BLOOM. That is exactly the opinion that I wanted you to express, because I know how you feel regarding the neutrality matters, but if you are going to give anyone the power to name an aggressor nation, that step alone would bring us nearer to war than possibly anything else that Congress or the President or any of us could possibly do.

Mr. Sisson. That is so, I believe.

Mr. BLOOM. Then why do it?

Mr. Sisson. I am opposed to doing it.

Mr. BLOOM. If any of these proposed bills on neutrality give the right to anyone to name an aggressor, why not exclude it?

Mr. Sisson. I should exclude it. In the Nye-Bone-Clark bill, that is one of the reasons that I favor it. The Nye-Bone-Clark bill, in connection with the present law, Mr. Chairman, that is as an amendment to your present law, in my opinion, comes as near to bringing or applying restrictions impartially, as can be done by law.

It does not give to anyone, or does not formulate as a policy, that this country either by the President or otherwise, will or may select and name the aggressor nation. The Fish resolution also before this committee is, as I understand it, a bill very similar in its philosophy to the Nye-Bone-Clark bill or rather to the Nye-Bone-Clark bill taken in conjunction with the present law. The Fish resolution is, in my judgment, a very well drawn and wisely designed piece of legislation and meets the requirements I have in mind better than any other single pending bill I have studied. It is, of course, intended to cover the whole field; while the Nye-Bone-Clark bill is intended to be taken together with the existing law.

Mr. RICHARDS. Mr. Sisson, I gather what you are driving at is this, that you would like the present law very well, but you are attracted to the Nye-Bone-Clark resolution, because if the President does not carry out the purposes of the act, then you have another department of the Government, the legislative, to go ahead and declare what the President was supposed to declare under the act, and then apply the embargo to belligerents.

Mr. Sisson. Yes.

Mr. RICHARDS. In other words, it says the President or Congress?

Mr. SISSON. Yes; that is right.

Mr. RICHARDS. Then the only difference would be that the Congress has also the right to declare a state of war exists, and that the embargo upon both belligerents as set forth in the present act, would have the double assurance of being carried out in regard to munitions.

Mr. SISSON. That is right.

Mr. CHIPERFIELD. Could not there still be a loophole there if the Congress, or if the feeling in the country would be that we wanted to favor China, and if the President decides that we do not want to find war existing between China and Japan, and the Congress felt the same way about it, then we still will have the same old situation of not having our embargo enforced?

Mr. SISSON. Well, of course, conceivably that might be so, I do not know that you can go any further. I do not know that you can or should presume that the Congress will fail to do its duty. I am not saying that we can or should presume that the President would not, but I believe that we are far safer this way, and I think that that is a part of the legislative function, and the formulation of policy.

Mr. BLOOM. Are there any further questions?

Mr. SISSON. And in applying that, I am saying that without any criticism, either actual or inferential, of any of the members of our Government, whether it is the Executive of the Congress or anyone else. I simply say that we should reserve and preserve all of the safeguards possible.

Mr. VORYS. As I understand it, you have no objection to the use of the embargo when it will be helpful to our national defense, or will help to keep us out of war, is that not correct?

Mr. SISSON. That is correct.

Mr. VORYS. But you do not want to have the decision as to whether the embargo should be used, taken away from Congress, is that not correct?

Mr. SISSON. Yes; that is my position.

Mr. VORYS. Now, what is your opinion as to whether an embargo is now needed against Japan, for the purpose of our self-defense and the preservation of war?

Mr. SISSON. You mean an embargo against Japan alone?

Mr. VORYS. Yes, sir.

Mr. SISSON. I should be opposed to that; I would be opposed as I think I have tried to explain; I would be opposed personally to selecting the aggressor nation.

Mr. VORYS. I am not saying aggressor, or anything else, but I just say that we have got a lot of our natural resources that are going out of our country, in millions of tons, in one direction there, building up a situation that some people think is solely in terms of self-defense, simply building a future menace to us, and all that we have to do is stop it.

Now, the thing has gone so far that possibly the stoppage of materials to both China and Japan would not make any difference, but some people think that the time has come when the further flow of materials, war materials, to Japan, should be stopped.

Now, I wondered what your view would be as to whether such a stoppage should take place, and if so how to go about it?

Mr. Sisson. Well, my view is, that in the 1937 act, the present law, the Congress served notice insofar as it could, in peacetime, that in the case of a conflict between countries, that it would be or very likely would be our policy to embargo arms and munitions. That was notice at that time upon Japan, and in my opinion, all that we have to do to accomplish the result of which you speak, would be to apply the present law, to have the finding that a state of war exists, which everybody knows exists, and then the embargo upon both China and Japan as to arms, and munitions, would follow. That could be extended, the particular commodities necessary for war could be extended—I believe that they could be extended even under your present law, to arms and munitions under the definition, under the convention of 1925, with some additions that have been made since them, the supplies which we wish to cover.

Does that answer your question?

Mr. VORYS. Yes; I believe that it does.

Mr. BLOOM. Any further questions?

Mr. Sisson. I would be afraid of singling out any nation regardless of where our sympathies were, and passing moral judgment upon that nation, as Professor Tovin very well said, by applying an embargo to such belligerent in contra-distinction to the other.

Mr. BURGIN. Even though it be a treaty breaker?

Mr. Sisson. Yes; even though it be a treaty breaker.

Mr. BLOOM. According to section 1 of the Nye-Bone-Clark Resolution, either the President or the Congress would have the right, and it does not require the approval of both.

Mr. Sisson. No; it would have a right to find a state of war exists.

Mr. BLOOM. And for the embargo?

Mr. Sisson. Except, of course, I think the resolution passed by the Congress would require the approval of the President, I believe that that is so. I do not remember whether it is a joint or a concurrent resolution.

Mr. BLOOM. It is a Senate joint resolution. It says that whenever the Congress shall by joint resolution find or whenever the President shall find that there exists a state of war between or among two or more foreign States, the President shall forthwith proclaim such fact, and it shall thereafter be unlawful to export or attempt to export or cause to be exported, arms, ammunitions, or implements of war, from any place in the United States, to any belligerent state named in such proclamation, or to any neutral state for transshipment to or for the use of any such belligerent state, so that the President would be permitted to do it without the approval of Congress, would he not?

Mr. Sisson. Yes.

Mr. BLOOM. And the Congress, if they should declare that a state of war exists, the President must forthwith.

Mr. Sisson. That is my understanding, exactly.

Mr. BLOOM. Any further questions?

Mr. Sisson. I had one other thing that I was intending to mention, if you are not in a hurry to adjourn, or I can come back if you wish.

Mr. Tobin made reply, in response to some questions, in which he mentioned the Kellogg Pact, and quite a number of questions were asked as to whether he would not be in favor of applying sanctions, applying embargo against a treaty breaker. I know that the chairman and many or several of the members of the committee, the chair-

man and Mr. Richards, at least, will recall that in 1936 I offered an amendment here before this committee, which provided in substance that the Congress should declare as a matter of policy and give notice in advance, that where any nation that was a signatory to a treaty to which we were also a party had broken such treaty, and gone to war in violation of that treaty, that we would declare it to be our policy that we should join with such other countries as were also signatories to that treaty, namely the Kellogg Pact, in naming the treaty breaker and applying sanctions, provided that in the opinion of the Congress there was a sufficient majority of such countries who so found, that that particular treaty breaker should be penalized by sanctions.

That amendment had the approval of I believe nearly all of the then leading advocates of collective security, all of the people who like I myself once believed in the efficacy of the League of Nations. It had the approval, for example, of such men as Dr. Shotwell, and Raymond Leslie Buell, who came to see me and gave me letters and so forth, saying that they supported that.

This committee considered it, I believe, very seriously, and very carefully, but finally it was not thought best to include it in the bill which was reported out and in fact the bill which was reported out that year was in other respect, I know, a great disappointment to the committee, as well as to many of the rest of us.

I mention that because in that we did not attempt to go anywhere near as far as some of the members of the committee have suggested and as several of the witnesses have advocated this morning, in punishing a treaty breaker.

In the light of the experience of the past 3 years, I am not at all sure that I would father or sponsor or back any such amendment as I then proposed.

I think that that is all, Mr. Chairman.

Mr. BLOOM. Mr. Sisson, there is just one question, if you please. What is your opinion of sanctions?

Mr. Sisson. Well, Mr. Chairman, I gave quite a good deal of thought and study to that in 1936 and 1935, and earlier in connection with certain of the provisions of the League of Nations, and the Covenant of the League of Nations, and this administration, under the leadership of President Roosevelt, made a very sincere effort to join in the application of sanctions, as against Mussolini, in the latter part of 1935, and the early part of 1936, as you will recall.

The answer to it was, on the part of Great Britain and France, upon whom we are now asked to rely, the Hoare-Laval agreement or deal. Otherwise, I think it is somewhat academic, and I think it has been settled by history against us, and my answer is again, that I am in favor of that kind of foreign policy which consists in keeping ourselves strong, economically as well as otherwise, avoiding the development of a trade, a war time trade which will be swollen beyond peacetime and normal proportions, and which will build up such a strong interest in this country, and such a dependence upon the continuance of a war as might again involve us as we were involved in 1917.

I am in favor, in other words, Mr. Chairman, of the good old-fashioned shirtsleeve policy now in the present state of the world of minding our own business.

Mr. BLOOM. Mr. Sisson and gentlemen of the committee, I would like very much to call attention to the testimony of Mr. Sisson in the

hearings of the neutrality policy before this committee in 1936. The reports are here, and I would like very much to recommend that the committee read Mr. Sisson's testimony at that time.

I also would like to be permitted to have read into the record at this time, the statement made by Chairman McReynolds, chairman of this committee, at the conclusion of Mr. Sisson's remarks at the previous hearings in 1936.

Chairman McReynolds said this:

I should like to say this to you, Mr. Sisson, that it is very plain that you have given this subject great study, and barring no witness, no one who has been before this committee, expert or otherwise, has kept closer to the bill before the committee, or has given us more valuable information than yourself, and I want to congratulate you.

Those are the sentiments, I believe, of the Committee of Foreign Affairs at this time, the same as it was in 1936.

Mr. Sisson. Thank you, Mr. Chairman, that is very kind.

Mr. BLOOM. The committee will recess until 2:30.

(Whereupon, at 12:40 p. m., the committee recessed until 2:30 p. m. of the same day.)

#### AFTER RECESS

(The committee reconvened at 2:30 p. m., pursuant to the taking of a recess.)

Mr. BLOOM. Gentlemen, the committee will be in order.

The first witness this afternoon will be Mr. Libby. Mr. Libby, will you give your name and address and whom you represent to the reporter?

#### STATEMENT OF FREDERICK J. LIBBY, EXECUTIVE SECRETARY, NATIONAL COUNCIL FOR PREVENTION OF WAR

Mr. LIBBY. I am Frederick J. Libby, the executive secretary of the National Council for the Prevention of War. I reside here in Washington, 532 Seventeenth Street, Washington, D. C.

Mr. BLOOM. You may proceed.

Mr. LIBBY. Mr. Chairman and members of the House Foreign Affairs Committee: As I judge from newspaper reports of the testimony before your committee, the two main lines of policy which one finds in the country at large have both been advocated. One group wants to "stop the dictators" by "methods short of war." The other group centers on keeping American out of war as the primary concern. The former group backs the President's foreign policy as stated in his message to Congress on January 4, 1939, namely, to defend "religion and democracy" and "sister nations" by "methods short of war but stronger and more effective than mere words." To this end, the President indicated that our neutrality policy should be abrogated. The second group opposes this foreign policy as the road to war.

When it comes to specific legislation on neutrality, the first group has divided into supporters of the Thomas resolution, supporters of the Pittman resolution, and supporters of outright repeal of our neutrality legislation. The second group, to which the National Council for Prevention of War which I represent belongs, supports strict neutrality.



We reject the theory that our country will contribute most to the prevention of war in Europe by tacit or open alliance with the "stop Hitler" coalition. We regard a foreign policy that seems to commit us to this course of action, as the President's foreign policy seems definitely designed to do, as the chief existing threat to the peace of the United States. The opposing theory that the empires and dictators of Europe will reach an agreement soonest if our Government stops meddling seems to us more reasonable. At the same time, to stop meddling in Europe's power politics will, in our judgment, best serve our national interest.

Consequently, of the proposals now before the Congress, we prefer the Nye-Bone-Clark Resolution as an effort to strengthen the present neutrality law, particularly at its weakest point. The President has refused to see that a "state of war exists" in the Far East and consequently has tolerated an extensive sale of munitions to both Japan and China. Popular complaint has been directed particularly at the sale of scrap iron and steel to Japan. This could have been prevented in harmony with our neutrality legislation if, after the law has been applied, as we feel it should have been applied, the President had asked Congress to add to the absolute embargo to both sides scrap iron and steel. I believe there would have been no opposition from any quarter.

Therefore, the provision in the Nye-Bone-Clark resolution that either Congress or the President be authorized by law in the future to make the discovery that a "state of war exists" seems to us useful. The Nye-Fish bill (S. J. Res. 21, H. J. Res. 113<sup>1</sup>), to put an embargo on the export of munitions at all times to any nation, "except to nations on the American Continents engaged in war against a non-American State or States," seems to us still better adapted to the prevention of our country being made an arsenal for foreign wars and building up a war boom which, our experience shows, is hard to curb, once it is started. Failing passage of either, we ask for continuance of the present law as far preferable to either the Thomas or the Pittman resolution.

With respect to the Thomas resolution, as we see it, its fatal defect is in the fact that it would make us a belligerent in a foreign war without giving clear notice to the American people as to what was happening to them, since it would be without declaration of war. When the President is given authority, whether with or without consent of Congress, to use the economic power of the United States to aid one belligerent and injure the other, we are obviously in that war. Reprisals are bound to follow. Even to call such a provision an "amendment" of the neutrality law seems to us plain deception. The Thomas resolution is justly characterized by Charles A. Beard as "an act for allowing the President of the United States to enter any war that begins abroad."

Turning now to the Pittman resolution, we oppose it on other grounds. It starts our country on the road to war, but farther back than the Thomas resolution does. It does not officially line us up on the side of one belligerent against the other. It proposes instead to limit our participation in a war to that of profitable trade for cash in munitions and war materials with the nations that control the seas. In a European war this would be the British Empire and France. In the existing Asiatic war, it is Japan. Not that Senator Pittman

<sup>1</sup> See p. 621.

wants to help Japan, but it is understood that he would ask Congress to make an exception to the disadvantage of Japan if his amendment should prevail.

The nation that controlled the seas would be required, to be sure, to come and get our munitions and other supplies under the Pittman amendment. This is one safeguard. It would also be required to pay cash for its purchases—at first. But the nations that traded with us in 1914 were required at first to pay cash. A profitable war boom was enjoyed by our country in the early months of the World War. Presumably those who back this bill anticipate a similar profit under the Pittman resolution from the next European war if one comes.

But follow through the history of 1915, 1916, and 1917. The cash obtained from the sale of securities was presently exhausted. It was felt, however, that the war boom must continue for the sake of our industries, while our future allies continued to need our economic aid. A great loan was then floated and more loans followed, the loans being subscribed for by our own people, who thus paid our manufacturers and farmers for our shipments to Europe. Finally, our Ambassador to London, Walter Hines Page, sent a famous cable to the President. He said:

Perhaps our going to war is the only way in which our present prominent trade position can be maintained and a panic averted

Mr. Chairman, the severest condemnation of the proposal of Senator Pittman will be found in the preelection speech at Chatauqua made by President Roosevelt on August 14, 1936, when he announced the foreign policy that he proposed to follow but has since repudiated in fact. He said:

If war should break out again in another continent, let us not blink the fact that we would find in this country thousands of Americans who, seeking immediate riches—fool's gold—would attempt to break down or evade our neutrality. \* \* \* To resist the clamor of that greed, if war should come, would require the unswerving support of all Americans who love peace. If we face the choice of profits or peace, the Nation will answer—must answer—"We choose peace."

"It is the duty of all of us," he continued, "to encourage such a body of public opinion in this country that the answer will be clear and for all practical purposes unanimous."

Mr. Chairman and members of the committee, the Pittman resolution, if adopted, will, as the President said, lead us down the road again to war. Drafted for the avowed purpose of helping the British and French Empires in a possible war against Germany and Italy, it proposes that we take sides this time before war starts. If you were to pass this resolution, you would in fact have said, as the President has more than hinted, that a war against Germany and Italy is "our" war; that our "first line of defense" is the Rhine.

And now, will you please follow that thought through to its logical end? Once you have accepted such a war as "our" war and have taken sides with the British and French Empires and with the Communist dictatorship, if Russia and Great Britain reach a basis of mutual confidence in their present negotiations, what assurance can you give to the American people that our participation will stop with making what money we can out of our allies? They would remind us very early in the conflict that they were dying on the battlefield in "our" war. Would not the same taunts that contributed in 1917 to

our entrance into the World War be justified? Does anyone doubt that, charged with being cowards and pikers, our youth would soon be dying again on Europe's battlefields? And to what end? To preserve the British and French Empires in their present dominance.

Gentlemen of the committee, when Congress votes on the Pittman resolution, the decision as to whether or not the present ruthless struggle for power and empire between two coalitions in Europe is "our" war will be made. The President has taken sides without consulting the American people and without seeking the advice of Congress. He has been meddling more and more in Europe's poker game ever since the "quarantine" speech he made in Chicago on October 4, 1937. But the Congress of the United States has not yet taken action. It has not yet decided whether the American people want as their primary objective to stay out of a possible European war or to "stop the dictators" by war if necessary.

This I believe to be the real issue on which you are about to pass. I would agree with Senator David I. Walsh, who is reported to have sent a dispatch to a constituent recently in which he said:

To attempt to stop aggression by every resource of short war means war, unless our country is to be placed in the position of an international bluffer \* \* \* We have no business to take sides, between countries threatening war upon each other, by "measures short of war" unless we are ready to cowardly shrink from supporting those principles when war results.

If you pass the Pittman resolution, you will have decided in favor of war if Europe goes to war. How long or how short the interval may be, how many steps may be required to bring the American people to face the consequences of what you have done, will be a matter of detail.

On the other hand, if you decide to continue the present neutrality law or to strengthen it, you will have given notice to the two great empires that are willing to welcome us into their coalition that we are not coming over again; that we are not satisfied with the results of our last foreign adventure; and that with that advance knowledge, they may feel free to make such terms as they see fit with their neighbors.

The President recently opened the door to a peace conference to precede, not follow, a war. Since peace conferences after a war are not likely to be much of a success, judging by past experience, this proposal unquestionably has general support. The terms of the President's message are plainly impossible of acceptance. He took sides again aggressively in the dispute and summoned Germany and Italy alone to tie their hands for 10 years and rely on the generosity of the British and French Empires and the United States, which have not shown themselves generous while Germany and Italy were weak or disarmed. Nevertheless, the gesture is in the only direction that offers hope of peace. However rough Chancellor Hitler's answer may be—and he can make a strong case—the door to negotiation must be kept open by public opinion. The only alternative to the war method is the conference table.

I want in closing to repeat what I said at the beginning of my statement that you will contribute most to the success of such a conference if you make crystal clear to Great Britain and France, before they go too far with their coalition efforts, that the United States has no intention of joining them in the trenches again.

Mr. JOHNSON. Mr. Chairman, I wish to ask Mr. Libby with respect to a comparison, as I understand it, you prefer what is known as the Nye-Bone-Clark bill. I wanted, for a moment, to call attention to the differences in that bill with reference to exportation of arms to warring nations. I will read the provision and then I want to ask you a question or two with reference to it.

Under the present law, now in effect, the language reads in section 1, Whenever the President shall find that there exists a state of war, then he shall so declare.

I just want to compare and I think there is a very slight difference, and I want to call attention to it and show just where the difference is. There is a good deal of talk about the present neutrality law not being mandatory and that the Nye-Bone-Clark bill is mandatory, and I want to point out, if I can, that there is really no difference so far as its mandatory feature. The part that I just read is in the existing law, that whenever the President shall find that there exists a state of war between two or more nations, then he shall declare.

In section 1 of the Nye-Bone-Clark bill, I read as follows:

Whenever the Congress shall find by joint resolution or whenever the President shall find, that there exists a state of war between two or more foreign States,

The language of the Nye-Bone-Clark bill is identical with the present law insofar as the power of the President is concerned because he is required to find the same thing, but it adds that whenever the Congress shall by joint resolution find, and that is the only difference insofar as the two with reference to the exportation of arms.

The President then would have no more authority than he now has insofar as power to act, he would have to find a state of war existing before he could declare the act in effect, but Congress could by affirmative action declare a state of war exists.

Has not Congress the right now without amending the law to pass a joint resolution and declare a state of war exists between two or more foreign States? In other words, why is it necessary for the law to say that we shall have a right to declare by joint resolution a state of war exists? Have we not that power, that legislative power, that inherent power?

Mr. LIBBY. I would assume that you have, Mr. Johnson.

Mr. JOHNSON. What force would there be added, since we already have the power, I am trying to point out that there is very little if any difference between the two as far as the mandatory provisions are concerned.

Mr. LIBBY. My assumption with regard to the insertion of those words in the Nye-Bone-Clark resolution is, and I may be wrong about this, that for you to adopt such a resolution without specific provision in the law, would be regarded by the country and by the world as a rebuke to the President, whereas if it is in the law there is no implicit rebuke.

Mr. JOHNSON. In other words, there is notice that the Congress might so declare, is that the idea.

Mr. LIBBY. That is what I assume, I would agree with the statement that is made.

Mr. JOHNSON. That would require an affirmative act of Congress, and if Congress took no action to declare a state of war, there would be nothing any more mandatory than there is now. Following that up at the last session of Congress, Mr. Sauthoff introduced a House

Joint Resolution 511, which is very brief, and I will read a substantial portion of the resolution.

Resolved by the House and Senate of the United States assembled that a state of war now exists between China and Japan, and be it further resolved that the President of the United States is apprized of that fact.

Now, that was simply carrying into effect what the Nye-Bone-Clark resolution would have done, and if Congress fails to act then the President fails to act, and there is nothing any more mandatory than there is now. The Congress did fail to act upon this resolution of Mr. Sauthoff's, it was not reported out of committee, and the Congress probably realized that the state of mind of the American people was not responsive to that resolution, do you not think so, Mr. Libby?

Mr. LIBBY. Perhaps, or it might be that the majority party in Congress was not responsive. It might be interpreted either way.

Mr. JOHNSON. The President's failure to invoke the Neutrality Act, insofar as it applies to Japan and China, of course, is based upon legalistic grounds, which I think probably under the law he would have the right to do. In other words de facto war but not a de jure war. Of course, there is room for debate upon that question.

Mr. LIBBY. I would like to comment on that point.

Mr. JOHNSON. I was going to ask you if the people did not generally approve of the President's failure to invoke it or not.

Mr. LIBBY. I think not, I think that during the early weeks of that war the President was acting contrary to public opinion.

Mr. JOHNSON. At this time, do you think it is still contrary? Do you think that they now acquiesce?

Mr. LIBBY. We might as well, after a year and a half of the war.

Mr. JOHNSON. Congress would have the right to not acquiesce if they did not care to, they could have adopted a resolution like the one by Congressman Sauthoff, and then the law would be effective.

Mr. LIBBY. But still was it not significant that it was not reported out of the committee?

Mr. JOHNSON. And the significance sustains what I said a moment ago, that the sentiment of the people is not in sympathy with such a finding.

Mr. LIBBY. Even then the war had been going on for months, but I would like to comment on that point with regard to the legal aspects of the law. You have perhaps forgotten it but you would find in the report of the House Foreign Relations Committee for 1936, when the Under Secretary of State, he was then, J. Walton Moore, appeared before your committee and the wording discussed was substantially this very wording.

You were very particular in your questioning of Judge Moore. He said, at that time, that neither the President nor the State Department would think of failing to invoke the law, once they were convinced that a war abroad was more than a skirmish. Do you find the wording there in the record?

Mr. JOHNSON. You mean the quotation from Judge Moore's testimony. I have not located it.

Mr. SHANLEY. That was the extension of the first act.

Mr. LIBBY. But the wording was in general terms like this: 'To avoid the phrase "declaration of war," it was recognized by the committee that wars nowadays are not declared, and, therefore, you had to get

around that fact, in some manner, and the question was whether the wording, that is, this or similar wording, would suffice.

Mr. JOHNSON. The original act when passed in 1935, I think, is stronger than the act is now. I will read the text. The text is as follows:

That upon the outbreak or during the progress of war between or among two or more foreign states, the President would proclaim such fact,

and it does not leave a finding by anyone, it says that upon the outbreak or during the progress of a war between two or three or more states.

Mr. LIBBY. But would you not agree that this is somewhat stronger wording than that, because somebody had to discover that it was a war that had broken out?

Mr. JOHNSON. We discovered the weakness of the original act and that was the reason the amendment in 1936 provided that the President shall find, but I still feel that a comparison of the finding by the President, and a simple provision that the Congress shall have the right to find—I do not think it will make as much difference as some people seem to think.

Mr. LIBBY. I would not call it a great difference, I agreed with Mr. Sissons' testimony.

Mr. JOHNSON. It is automatic, but not until Congress acts, it stands just as it is until Congress acts, and that is the provision I was pointing out particularly, because a great many people seem to think that the Nye-Bone-Clark proposal would take effect right away, and will not take effect any more than the present law unless Congress passes an affirmative resolution.

Mr. SHANLEY. I notice that in your comment on the Far-Eastern situation, you said that the President should have asked Congress to have added to it the absolute embargo on scrap iron and steel. Would you amplify that?

Mr. LIBBY. I am answering the point that Mr. Vorys brought out repeatedly this morning, the public sentiment that this country is very strongly opposed to the sale of scrap iron and steel to Japan, there is no question about that. The bombing of the Chinese with American scrap iron and steel is obnoxious to us all.

Now, then, the application of the law as it stands would not do that, although Mr. Sisson argued this morning that he believes that the law might have been interpreted as including scrap iron and steel, but that is a moot point. I am not a lawyer and I would not be able to pass upon that.

Mr. SHANLEY. What law would include that?

Mr. LIBBY. Our present Neutrality Act.

Mr. SHANLEY. Section 1 is an outright embargo on arms and ammunitions and the implements of war, and, of course, you would not get it in there.

Mr. LIBBY. I understood that Mr. Sisson meant that it could be included in there.

Mr. SHANLEY. Not if he read the hearing of the committee, because we differentiated between munitions and ammunitions. We had quite a debate on those two words.

Mr. LIBBY. The point is that public opinion has, I think, been very nearly unanimous on the desirability of not exporting scrap iron and steel to Japan, and, therefore, once the law had been applied equally

to both sides, it would have been a very simple matter to ask your committee and through you to ask the Congress, to amend the law by the addition of scrap iron and steel to the embargo products.

Mr. SHANLEY. Not under section 2, in which he has a right to set out certain articles and materials.

Mr. LIBBY. No; it would have been a separate act.

Mr. SHANLEY. In other words, after he had issued a proclamation, the first proclamation of outright embargo on armaments, ammunition, and implements of war, he would come to us and ask us to change the rules of the act, during the conflict.

Mr. BLOOM. You mean in section 2?

Mr. SHANLEY. No; he says that he goes in and adds to section 1 the words "scrap iron and steel."

Mr. LIBBY. Now, you brought up a very important point of international law there, whether you are risking war when you change the rules during the war.

Mr. SHANLEY. No; I am not bringing that up; that has not a thing to do with me—you can always change the rules, providing it is to our national interest. I have no objection to the changing of the rules of the game. That is the time when we ought to change them, during the game, when it is to our advantage; I mean when it is to our national advantage. There is nothing wrong about that, but I am just wondering how this agrees with the ideology expressed in the Clark-Nye-Bone bill where apparently the only reason you want to add iron and steel is because you are affected deeply and emotionally by this conflict.

Mr. LIBBY. Not I, alone; the whole country has recently hated and deplored what is going on, and I think the feeling that was indicated here this morning expresses a very general sentiment. Now, then, your question is whether such a sentiment is consistent with keeping American out of war, that I regard as the primary objective.

Mr. SHANLEY. We all agree on that.

Well, now, suppose that there was a conflict in Europe and scrap iron and steel became essential, would you also embargo on scrap iron and steel against a totalitarian state at the present time; I mean have you any valuation of public opinion as against Germany and Italy?

Mr. LIBBY. The feeling against Germany and Italy is very strong. I agreed with practically everything that Mr. Sisson said here this morning, and his emotional reaction on what is going on in Europe, but the first consideration, I believe, must be, and it must never be lost sight of, to keep our country out of a foreign war.

Now, an embargo on scrap iron and steel to both sides could be justified under various considerations, from the standpoint of national defense, and there has been a great deal of criticism of the sale of scrap iron and steel to Japan, and I would suppose that that also might figure in the argument.

Mr. SHANLEY. We have got to be a little more courageous than that, and face the issue on something more definite than national defense. I think that that has been overworked. I cannot get it into my head, in this extension of iron and steel—of course, it is going to work both ways, but I take it that the same group that are opposed to it in the Nye-Bone-Clark Resolution would oppose a complete elimination of the present Neutrality Act, would they not?

Mr. LIBBY. Yes.

Mr. SHANLEY. I do not think that Senators Nye, Bone, and Clark would stand up for any complete elimination of the present Neutrality Act.

Mr. LIBBY. Certainly not.

Mr. SHANLEY. And the reason is because it would, even though it is impartially applied, it would affect the so-called democratic nations, is that not so?

Mr. LIBBY. Yes.

Mr. SHANLEY. Now, this impartial application of the addition of scrap iron and steel, to this forthcoming war in Europe, would also impartially apply, and it would benefit the same, and I am wondering how the same ideology would stand it in one instance and not in the other.

Mr. LIBBY. Now, the ideology that you are speaking of, is that point of view from which I am not arguing. I am considering solely the one objective, and I say the primary objective, of keeping our country out of war. Now, you have to keep in mind that public opinion also, in so doing. And if you do not want to lose your whole neutrality law, you may for that reason alone add a particular object, a particular war that is causing a great deal of criticism of the law.

Mr. SHANLEY. Now, you understand I have a profound respect for your views, and your study on this question, but I am just trying to know where to place the group that you represent, whether they are collectivists or isolationists. I understand that you are not collectivist.

Mr. LIBBY. No.

Mr. SHANLEY. And you are not isolationists?

Mr. LIBBY. Not except against war. The President made a speech at Chautauqua, and if he had lived by that speech, I would not be appearing here to oppose his policies. But he reversed himself and that is what made all of the trouble.

Mr. SHANLEY. Do you include also the phrase in that speech, that in the last analysis the maintenance of our foreign policy rests in whoever occupies the presidential chair, or the Secretary of State?

Mr. LIBBY. That is in a minor position in the speech, and is not so important and is not so emphasized as where he said, "We are not isolationists, except in so far as we seek to isolate ourselves completely from war." That is our position.

Mr. IZAC. Mr. Libby, how inconsistent we are when we try to embargo something like scrap iron and steel, when at least with Japan if not with other aggressors, they are more dependent upon us for the oil, which flies the planes drops the bombs that are built out of scrap iron. Now, why should not we embargo oil, just to mention one of the materials, but I would go so far as to say even cotton, because without cotton there would not be any explosives of the kind that are used in modern warfare.

Mr. LIBBY. There you are bringing in another idea, as I might say to Mr. Shanley, that raises the old issue of an embargo on Japan, does it not?

Mr. IZAC. Undoubtedly.

Mr. LIBBY. Now, that I oppose, and our organization opposes that on several counts.



First, we think that if you embargo oil to Japan, you are going to drive Japan to further depredations, because there is oil in Borneo and I would expect Japan to go after that oil in Borneo, no matter at what cost. Secondly, the attempt to impose a sanction on Japan, because that is the real question back of that, does not stop the army. It has been proposed that we could embargo everything to Japan, close down on our trade with Japan, as you know.

Now, in time of war the army gets what is necessary, and the civilians at home get what is left. That was the experience of Germany under a blockade, and it would be the experience of any people, and therefore, far from stopping the army, it would bring about a starvation of the old people and the babies, and that is certainly contrary to America's humanitarian desires.

And then, in the third place, the experience that the world had with putting an embargo or a boycott on supplies to Italy, the sanctions upon Italy in her war with Ethiopia, did more than any other factor to bring a lukewarm people to the support of Mussolini's foreign war. That war was being fought 2,000 miles from home, and the peasants of Italy did not like it. They did not like to send their boys abroad to fight, but when the world was against Italy they were Italians, and the peasant women from the mountains brought their wedding rings down to help the war.

So that our opposition to an embargo or a boycott on Japan is based, we feel, on very solid considerations. That may have been what was troubling Mr. Shanley. My thought in including scrap iron and steel is simply because that is the issue that is out in front in the propaganda today, for an embargo on goods to Japan, and I insert that as a sop to public opinion, if you will, on that issue, but it does not go so far as what you say, and I did not want to go so far. It is a question of degree and a question of expediency.

MR. JOHNSON. Mr. Libby, you feel that an embargo on scrap iron and steel is a violation of your idea of what should be done, but you are willing to go that far to appease public opinion. Is not that the logical conclusion of what you said?

MR. LIBBY. No; I would say that an embargo on munitions can logically include scrap iron and steel. It is just a question of one more stage in the manufacture.

MR. JOHNSON. With reference to that, when we drafted the neutrality law, we had extensive hearings and gave great consideration to the question of whether or not we should enumerate what constituted arms, implements and munitions of war, and it was finally agreed that if we undertook to enumerate such, and we failed to enumerate, we would include articles that were not included, and munitions change so much, and ammunition changes so much, that it was thought best to leave that flexible, to be applied as the circumstances arose and also based upon findings heretofore made in international law as to what constituted those things.

So if we should start out to enumerate certain things and say that these are munitions and implements and ammunitions of war, we meet the same objection that we had when we passed the original act.

MR. LIBBY. That is true.

MR. VOYRS. Following your thought a little further on the Japanese situation, you do not maintain that an embargo, for instance, of aeroplanes, oil and scrap iron, and machinery, that an embargo of those things would starve anybody in Japan, do you?

Mr. LIBBY. It depends. Let us take them one by one. What ones did you want?

Mr. VORYS. I enumerated a number of them, that you could not eat or drink.

Mr. BLOOM. That is, anything that you cannot either eat or drink?

Mr. VORYS. I have enumerated a number of them, things that people have told us were very vital to the carrying on of the war in Japan, but to me what would not seem to be things that anybody could eat.

Mr. LIBBY. That is why I singled out scrap iron and steel, because that is just used for bombs, and is only one stage removed.

Mr. VORYS. Now, if we had an embargo against Japan, and limited it to things that could not be eaten, then we would not starve anybody in Japan, would we?

Mr. LIBBY. Now, if cotton was included—and cotton was mentioned—and your committee I think did a great deal of thinking toward the possibility of establishing a quota for potential war materials like cotton—I have never, personally, reached a settled conviction on that particular law. But with cotton and silk, our cotton is exchanged for their silk, and when you limit the amount that we sell to them, you automatically limit the amount that we buy from them, do you not, so that in putting an embargo, for example, on cotton, you would automatically cut down their home industry, their chief home industry, which is the silk industry, and you would be starving the babies of Japan. I have no question about it.

Mr. VORYS. To follow this idea further, do you think that the only thought we have is whether we shall embargo, and kill the babies on one side, or refrain and kill babies on the other side? It is not quite as simple as that, is it?

Mr. LIBBY. It is not so simple as that.

Mr. VORYS. Another thing, suppose that all the experts who knew, would say that you are wrong about Japan going to other sources to obtain the supplies that we should cut off, and just suppose that that was the situation, and that the cutting off of certain supplies that we could list, would stop that war in 3 to 6 months. Would you still feel the same way about such an embargo against Japan?

Mr. LIBBY. You mean against Japan alone?

Mr. VORYS. Yes.

Mr. LIBBY. Not against China?

Mr. VORYS. No.

Mr. LIBBY. To abandon neutrality, and take sides, is that what you mean?

Mr. VORYS. Yes.

Mr. LIBBY. Well, then, I am against it.

Mr. VORYS. Suppose that the same embargo on the same things to Japan and China would have the result of ending the war in the space of 6 months, because it would bring Japan to her knees, would you then approve of it?

Mr. LIBBY. Do you mean maintaining neutrality, I mean equal treatment?

Mr. VORYS. Oh, yes, we would treat them equally, except that one could not buy the supplies.

Mr. LIBBY. I regard the object of this neutrality law as really twofold; one, to keep America out of war by equal treatment of both sides, and secondly, to shorten foreign war.

Now, I would say that those considerations might be met by that particular proposal that you now indicate, although it would be a little late to apply it now.

Mr. VORYS. Our problem right here is whether to apply it now, or not to; now is the only time that we have to deal with, is it not?

Mr. LIBBY. The future is ours.

Mr. VORYS. If you approved the Nye-Bone-Clark resolution and then either the President or Congress should make the startling discovery that there is a war going on in China, what we would do would be then to apply an embargo on both sides, which would not affect them equally at all.

Mr. LIBBY. True, that I approve.

Mr. VORYS. You are not concerned about the effect on both being equal?

Mr. LIBBY. No, sir; you cannot consider that and maintain the principle of neutrality, so-called, which is really to keep America out of war.

Mr. VORYS. That is, neutrality is a misnomer entirely, because merely inaction is partial and not impartial.

Mr. LIBBY. And you cannot equalize the belligerents.

Mr. VORYS. So that what we have got to design here is either legislation whose effect will favor one side or the other, or refrain from legislation and have that favor one side or the other. We have no chance to be impartial, have we?

Mr. LIBBY. That is right.

Mr. VORYS. Then we have got to decide whom we want to be partial toward, do we not?

Mr. LIBBY. Not necessarily; you decide that you want to be partial to the United States.

Mr. VORYS. No; we want to serve our best interests.

Mr. LIBBY. That is what I mean, you must serve our best interests.

Mr. VORYS. But we cannot be impartial, can we?

Mr. LIBBY. No.

Mr. VORYS. We must decide whom we want to be less impartial against.

Mr. LIBBY. I would not put it that way. I think that you go astray if you make that your principle. I think that your principle, is, as I said, I think it is stated in the beginning of your law, at least in one place, to shorten wars, that is the second objective, and the first is to keep America out of war, and I think that if you keep a clear trail toward those two objectives, you will not go far astray.

Mr. CHIPERFIELD. Mr. Chairman, I believe that the witness has just answered the question that I had in mind. I believe if I interpret you correctly, Mr. Libby, you agree with Mr. Sisson, that we must treat both countries theoretically equal so far as embargo is concerned and let the chips fall where they may.

Mr. LIBBY. I do.

Mr. CHIPERFIELD. I am inclined to feel when they include scrap iron, as you suggested a minute ago, that you are going a little beyond those limits, but what I would like to ask you—I would like to have you elaborate on your ideas on this cash-and-carry proposition. I am not clear just how you feel about that.

Mr. LIBBY. On the cash-and-carry provision, as you know, just as on this quota question, there are arguments pro and con. On the

whole, it seems to me that the cash-and-carry provision contributes to keeping America out of war, and because it does I am in favor of it.

Mr. CHIPERFIELD. Do you think that the same thing could be accomplished by placing our shipping with belligerents at their own risk?

Mr. LIBBY. I would agree with Mr. Sisson on that point, as he referred to it this morning, a little more danger is there in our emotional reaction, that will take us into war.

Mr. BLOOM. Do you believe that the Congress at any time in passing a neutrality law has delegated any of their powers to the President or anyone else?

Mr. LIBBY. Their powers, no; not on this Neutrality Act, they had to select someone to discover that a state of war exists, they could hardly name one of their own number. They might have said the Speaker of the House, or the Vice President, who is so popular now, but they said the President, they picked out someone, and, therefore, I would say that that was not delegating any of their powers. It was merely selecting a person.

Mr. BLOOM. Then do you think that it would have been necessary, or, if necessary, for the Congress to pass a resolution giving back to the Congress the right to declare that a state of war existed any place?

Mr. LIBBY. As I said, I would call that merely a device. It is not necessary, but when you remember that the dominant party in both Houses of Congress is likely to be of the same persuasion as the President, it is a little difficult to conceive of Congress going over the head of the President, and finding that a state of war exists, as Mr. Sauthoff suggested, without its having been specifically provided in the law. It would be too severe a rebuke to happen, practically speaking, and so from that standpoint, I understand that the Nye-Bone-Clark resolution has been framed.

Mr. BLOOM. You think that the Congress still has this right, that this resolution would reinstate in the Congress?

Mr. LIBBY. Surely.

Mr. BLOOM. Then it would not be necessary to adopt a resolution?

Mr. LIBBY. From the practical standpoint that you are not likely to go over the head of the President, when he is of your own party, unless it is not a rebuke to him.

Mr. BLOOM. Do you not think that the President intended in his last message to the nations of world was doing the right thing in trying to prevent war, in bringing the nations of the world together and talking peace?

Mr. LIBBY. I tried to make it clear in the last page of my statement that I do think so.

Mr. BLOOM. But you do say that he has been meddling more and more in Europe's poker game, ever since the quarantine speech that he made in Chicago on October 4, 1937.

Mr. LIBBY. I did not suppose that there was anyone that questioned that.

Mr. BLOOM. Do you not believe that the President has been doing everything that he possibly could do to try to prevent war in Europe, and throughout the world?

Mr. LIBBY. By a method in which I do not believe, the method of taking sides and strengthening the British and French Empires as

against the totalitarian states. Now, I regard that as the road to war and not the road to peace.

Mr. BLOOM. The answer is that they are still at peace, is not that right?

Mr. LIBBY. Precariously.

Mr. BLOOM. The answer is that they are still at peace.

Mr. LIBBY. They are at war, I think, Mr. Chairman, economic war. There has not been such a furious diplomatic war, I was going to say in recent history, as the diplomatic war of the past 3 weeks.

Mr. BLOOM. Yes, but there is no real war in Europe at the present time.

Mr. LIBBY. Except that that is war. There has been an economic war for a long time, too.

Mr. BLOOM. But the President has done everything that he possibly could do to try to avert war.

Mr. LIBBY. I am glad that you think so.

Mr. BLOOM. I think the country thinks so.

Mr. LIBBY. I do not think so, Mr. Chairman, I go out in the country a great deal on speaking trips, and you would be surprised at the rapid growth of the feeling that the President is leading us to war.

Mr. BLOOM. Do you not think that that is done chiefly through propaganda?

Mr. LIBBY. I think that the President's own propaganda, his war propaganda, is the chief menace to our peace, except in that message calling for a peace conference, and even there his best friends in the newspapers give one to understand that he did not really mean it, that he was trying to put Hitler and Mussolini on the spot, expecting the answer to be "no," and then he is in a position to say that he has done his best for peace, and that now it was their fault if war followed.

Now, I would not go so far as that in questioning his motives, and I am going to watch him very closely to see what he does after Hitler replies. That is going to be the real test of whether he wants a conference or not.

Mr. BLOOM. You are not the only one who is watching for that.

Mr. LIBBY. That is quite true.

Mr. BLOOM. What have you to say with reference to the exporting of scrap iron to Japan in the last year, as compared to the previous years?

Mr. LIBBY. It has grown very rapidly, I understand that whole railroads are on the docks out in Seattle and Tacoma.

Mr. BLOOM. The testimony before this committee yesterday, I think, shows that the exporting of scrap iron to Japan last year compared to the previous years has been reduced more than one-half.

Mr. LIBBY. Is that 1938?

Mr. BLOOM. That is as against 1937.

Mr. LIBBY. Really, well the war has let up then, evidently.

Mr. BLOOM. Well, that is not quite the answer, and now, supposing that the export of scrap iron has been reduced 50 percent, as compared 1938 to 1937. What would you have to say about that?

Mr. LIBBY. They may not have been able to pay more for it, or they may not have been able to get ships, or they may not have required it for their immediate operations, but a colleague of mine who

has just been out on the Pacific coast says that the docks are piled high with scrap iron and steel.

Mr. BLOOM. With reference to paying for it they have increased their imports on oil, machinery, and copper, and yet in scrap iron and steel they have been reduced over 50 percent so they must have had some money to pay for these.

Mr. LIBBY. They have money still.

Mr. BLOOM. Then they could buy the scrap iron as well as the other things.

Mr. LIBBY. If they needed, undoubtedly they would, but those facts are new to me, and I did not know that that was the case, I selected that because that is the pressure that you are feeling.

Mr. BLOOM. And you would put an embargo on scrap iron and steel, and would not put it on copper, machinery or oil, and the other things that Japan is purchasing more and more, every day in this country, and less of scrap iron and steel?

Mr. LIBBY. I do not see how you could include machinery in the same category with munitions.

Mr. BLOOM. Well, we will leave that out, but how about oil?

Mr. LIBBY. As I say, I think that you have got to follow to a certain degree expediency, and that when you consider oil you have to take all of the factors into consideration, just as the 50-odd nations of Europe did when they were considering an embargo on exports to Italy, in the Ethiopian War.

Why did they do that? Because they were afraid to put that embargo on. If they had tried it they were afraid that they would precipitate a general European war, and you have got to consider that.

Mr. BLOOM. Do you believe in naming the aggressor nations?

Mr. LIBBY. No; I think that that word "aggressor" is a propaganda word, and it is a short-cut, a slogan, that ignores all of the history back of the aggression. It oversimplifies the situation. I think that Mr. Sisson brought that out extremely well this morning. When you simply take a certain date and say that everybody that strikes after that date is an aggressor, and we will forget all of the previous events, that is not realistic. You cannot forget and the other people are not going to forget those events and it simply tends to perpetuate the status quo.

Mr. BLOOM. Do you believe in sanctions?

Mr. LIBBY. No.

Mr. SHANLEY. Of course, that statement of Miss Shain would have been all right if everybody at that conference table in signing the Kellogg Pact had understood that it was going to be applied that way.

Mr. LIBBY. Yes; and I was very glad that Mr. Sisson brought out another fact with regard to the Kellogg Pact that could be amplified a little bit more, I think, namely, that when the British Government signed the Kellogg Pact, it said in its reservations, in substance about as follows:

We observe that the right of self-defense remains, and for us there are certain regions which we regard as essential to our self-defense. We reserve freedom of action in those regions. We assume that the United States takes the same position.

That, of course, refers to South America. Of course, now, since in a multiple treaty like that, all of the signatories get the benefit of each reservation, the sky is the limit. Japan has not broken the Kellogg Pact; it is absurd to pretend that it has, anyway not legally.

Mr. BLOOM. What has it broken?

Mr. LIBBY. It has broken the Nine Power Treaty, but there again Mr. Sisson brought out a very important point, that treaty was ratified in 1923, and no provision was made for its change.

Mr. SHANLEY. Except a frank disclosure.

Mr. LIBBY. Yes, but under those conditions it was simply a question of waiting until one or another of the signatories decided to break it, just like some of the laws that you pass.

You do not expect the country to keep every law that Congress passes; you expect some of them to go into the discard, because they are not practicable.

Mr. BLOOM. Not from the Foreign Affairs Committee.

Mr. LIBBY. No.

Mr. JOHNSON. Is it not true, Mr. Libby, the only law that is a really effective law, a law in fact, is a law which reflects the crystallization of the sentiment of a people? Is not that what makes a law? It is the crystallization of the sentiments of the people that makes a law.

Mr. LIBBY. That is an extremely accurate statement, I should say.

Mr. JOHNSON. And is not that one of the reasons why it makes it so difficult to write neutrality laws, because sentiment is continually changing? That is one reason this worries me.

Mr. LIBBY. That is why I put in scrap iron and steel.

Mr. JOHNSON. In reference to Japan you have indicated in some frankness, and I commend you for it, because so many people try to alibi, that the reason you would be willing to embargo scrap iron and steel is because you feel that the people, or the sentiments of the people, want that and demand it.

Mr. LIBBY. Exactly.

Mr. JOHNSON. Now, applying the same principles to a neutrality law, and I ask this not to criticize you, but just to try to illustrate the position we are placed in, that the people are not neutral between countries and the sentiment is not neutral, then is it not hard to draft a law that will carry into effect neutrality legislation? That is the problem we have to face.

Mr. LIBBY. I know it is. The answer, and the only answer that I can make to that, is that you must do the best you can, and help to educate the country as to the object of this legislation, which is to keep the country out of war.

Now, our columnists, and some of our greatest newspapers, and others in high positions, have obscured the real purpose of this law by describing it as unneutral and all of that, and now you are deciding between the Pittman resolution and continuance of the present law. That in reality will be helping the people to decide between the two urges, because they have an urge to stop the dictators and they have a tremendous desire to stay out of foreign wars.

Mr. JOHNSON. If you can tell us how to do both of those, you are all right.

Mr. LIBBY. They have not seen yet they cannot do both. You have got to show them that the most important thing is being kept out of foreign wars, and I offered a slight concession on stopping the dictators.

Mr. JOHNSON. You used an expression a few moments ago about propaganda. Is it not true that when Americans, whatever sentiment is being crystallized our way, we think it is sentiment, and when it is

being used for a position that we do not agree with, we call that propaganda? Is not that about the best distinction that is rightfully applied?

Mr. LIBBY. I would put it another way, what I seek is education and what the other people seek is propaganda.

Mr. BLOOM. Did you listen to the Round Table last Sunday?

Mr. LIBBY. Which one?

Mr. BLOOM. The Chicago University Round Table.

Mr. LIBBY. No; I did not happen to hear it.

Mr. BLOOM. Have you been listening to any of the speakers and propaganda on the radio with reference to the Thomas bill and the other bills?

Mr. LIBBY. Yes.

Mr. BLOOM. Well, if you were not acquainted with the problem as you are, after listening to one speech or playlet, or whatever it is, you would believe and write to your Congressman that that was the thing to do.

Mr. LIBBY. You would.

Mr. BLOOM. Well, have you anything to suggest to this committee as to how we can overcome that?

Mr. LIBBY. I hope that you will, when you are free this summer, go on a tour, a speaking tour, Mr. Chairman. I think that that applies to all of you, and you should educate your constituents on the incompatibility of keeping out of war, and giving way to your emotions. You cannot do both.

Mr. BLOOM. What are we going to do between now and summer?

Mr. LIBBY. I will tell you, retain or strengthen the present Neutrality Law. The value of that is that it is a gesture to our people, and to Great Britain and France, to indicate we are not going to join them in the trenches. There you will unquestionably be meeting the deepest desire of the American people, and then, having done that, go back to your constituents and tell them why you did it.

Mr. BLOOM. After we did it, you mean go back and tell them why?

Mr. LIBBY. You will have to do it anyway.

Mr. BLOOM. Are there any further questions of the witness? If not, we thank you very, very much, Mr. Libby, and we appreciate your coming before this committee very much.

Mr. BLOOM. The next witness is Mr. Ralph W. Emerson.

Mr. Emerson, I understand that you are the legislative representative of the Maritime Committee of the C. I. O., is that right?

Mr. EMERSON. Yes.

Mr. BLOOM. Will you give your address to the reporter, please?

#### **STATEMENT OF RALPH W. EMERSON, LEGISLATIVE REPRESENTATIVE OF THE JOINT MARITIME COMMITTEE OF THE C. I. O.**

Mr. EMERSON. I am Mr. Ralph W. Emerson, legislative representative of the Joint Maritime Committee of the C. I. O., 1627 K Street, NW. I am appearing here today, Mr. Chairman and members of the committee on behalf of over 200,000 maritime workers, and this is just not a figure, we have the actual membership.

Before giving the two basic reasons for my appearance here, I would first like to compliment this committee on the democratic procedure they are using in the hearings, because I can see that no matter how small a minority a witness represents, he certainly gets plenty of time.



Mr. BLOOM. Thank you, very much.

Mr. EMERSON. We have two particular reasons for wishing an appearance here. These reasons are the result of what has happened in the past, and what we are hoping will not happen in the future. At the present time there are pending unsettled from the World War, approximately 1,800 claims put in by American seamen to the Mixed Claims Commission and handled through the State Department against Germany. These are the result of American seamen being on ships that were torpedoed by U-boats. Nothing has ever come of these claims, and we now look upon this claim as something in the very, very distant future, and perhaps the grandchildren of the seamen will get something from Germany, but we do not think that they will.

We do not want that to happen again, we want some protection for our seamen, in case there is a war, or in case a foreign policy is followed by this country which will lead to any conflict.

Our second point that I would like to bring to your attention is a specific example of something that happened about a year and a half ago, at the time it received a great deal of publicity over the radio and in the press and in the motion pictures, and in the magazines. It was the case of a ship by the name of the S. S. *Witchita*, which is a Government-owned and operated merchant vessel, that is owned and operated for the account of the Maritime Commission. It was lying over here in Baltimore, loading material for the Far East, and some of our seamen who are members of our union happened to notice the type of cargo that was being loaded on the ship, and they phoned me over here in Washington that the cargo consisted of 15 high-speed bombing planes which were labeled as air-mail carriers, and several hundred cases of revolvers, and several tons of barbed wire which was designed for use in the Far East for war purposes.

I examined the certificate over at the State Department on that material, and I could not reconcile myself that this was not war material.

Now, before that ship left Baltimore, we inquired both of the State Department and the Maritime Commission as to the ultimate destination of this cargo, and we were informed that this cargo was destined for China. We knew exactly what that material was going to be used for, and we were certainly in favor of its getting to China, but we were not in favor of setting a precedent that could be used to convey war materials to other countries, under another guise, such as Japan, and, therefore, we asked that some protection be given to this merchant vessel and its crew.

We asked at that time either for the accompaniment of a United States warship on the Pacific Ocean, or else that the crew be at least sufficiently repaid for the danger that they were being involved in, so that at least they would get a decent burial if the ship had been sunk. We also got further information, and it was very authentic we thought, and we knew the Japanese were watching the progress of this shipment.

This ship left Baltimore under protest of the crew, and they had been in communication with me before that time.

Mr. JOHNSON. What date was this that you speak of?

Mr. EMERSON. I can give you the specific dates later on, I think it was in September of 1937.

This ship left Baltimore, manned by this American crew, a union crew, under protest, only with the understanding that they would contact our headquarters in New York and the office I have in Washington when they arrived at San Pedro, Calif., at which point they would take on a sufficient fuel supply to be able to navigate the ship to its destination.

In the meanwhile, many things happened between the time that this ship left Baltimore and the time it reached San Pedro. We have taken the position that we could not get any satisfaction at all from the State Department as to what was the status of the Far East situation in regard to China and Japan, so, not being able to get any satisfaction, we simply set up our own views on the neutrality and declared ourselves that a war existed. As far as we were concerned it existed, because we had our seamen's lives to protect.

Now, between the time of that departure of the ship from Baltimore and the arrival in San Pedro, Calif., by way of the Panama Canal, a great many wires went back and forth between various Government departments, between various interested people who had cargo on that vessel. There was one Government official who took the position that a state of war did exist and he was immediately stepped on by our State Department and told that he had better keep quiet, because a war did not exist.

Well, when that ship arrived in San Pedro, our worries were practically over because the barge men at the harbor also took the position that a war existed and refused to fuel the ship up and also our crew promptly did not go anywhere, and sat down and waited for further orders, and since they could not get any satisfaction out of the State Department and no one would commit themselves they were putting themselves in the position of a Government-owned and operated merchant vessel taking a chance of being sunk by a Japanese cruiser and thus setting off a whole string of international fireworks which might result in practically anything.

Well, the result of all of the publicity that that attained from this incident, was that those bombing planes and war materials were unloaded in San Pedro, Calif. Incidentally, those planes did get to China, I am happy to report by another route several months later.

But, now, here is where we were; we were in the middle, if we refused to go out of San Pedro, Calif., under ordinary circumstances we would have been accused of mutiny, the crew would have been tried under the Admiralty Law. At the same time they were asking us to take war materials to a foreign nation, which we said was at war, whether they liked it or not, they were.

They can call it an incident, or a picnic, or anything that they want, but people were being killed.

So, what we would like to see is that we get some protection in the event that instances like this keep happening from time to time, either that we have the protection of our Navy, if we are going to be asked to carry this war material, or else in our foreign policy there be laid down a concrete, specific rule, so as to let us know what policy we are going to carry out in regard to our shipping.

There was no question about this being war material at all, regardless of how it was labeled, because those are the first air-mail planes with turrets in them to put machine guns on that I have ever seen.

Now, this leads to using a little broader view of the neutrality, as we see it.

Mr. JOHNSON. Before you leave that question, are you going to give us, your opinions on the aspects of this legislation, or are you going to leave that to us?

Mr. EMERSON. We have some suggestions, but we do not try, in view of the many opinions that have been brought before you, we would not attempt to put specific words in your mouth.

Mr. JOHNSON. But what of the suggestions—are you going to go into that later in your statement and deal with the suggestions?

Mr. EMERSON. Yes, sir.

Mr. JOHNSON. I thought that you were going to another question here?

Mr. SHANLEY. May I call your attention to a recent English court decision. I regret that I do not have it here now. I have asked for it but I am unable to get it. You may be able to find it because you are familiar with these maritime matters. In that court decision it was held that for purposes of insurance there is a war in China.

Mr. EMERSON. That is correct.

Mr. SHANLEY. Have you heard of that?

Mr. EMERSON. I do not have the case here, but I know it to be the case, because we had it outlined in the papers issued by the National Union of Seamen in England.

Mr. SHANLEY. Will you try to get us a copy of that?

Mr. EMERSON. Yes.

(Was not furnished.)

Mr. SHANLEY. Those things come from England very slowly, and you know now that there is a blockade, and the only blockade that the Japanese have invoked is against the Chinese, and it is not against any other nations, do you know that?

Mr. EMERSON. That is correct.

Mr. SHANLEY. So far as the blockade is concerned there is no fear and no danger to us at the present time, but that does not preclude the possibility of something.

Mr. EMERSON. We say that there is danger to our shipping, because we had two men killed on the S. S. *President Hoover*, although the Japanese said afterward that they were sorry.

Mr. SHANLEY. Did they pay any indemnity for that?

Mr. EMERSON. I do not know, Mr. Shanley.

Mr. Fisher, can you tell me whether those West coast seamen were paid for that?

Mr. FISHER. Off-hand I do not know, sir, I could not find out, but I would be glad to find out for this committee and I would be glad to submit that for the record, and I think it is a very important point.

(Was not submitted.)

Mr. SHANLEY. Could you submit a contract that you have with your sailors in case of war?

Mr. EMERSON. We have no specific war bonus clause, that is a subject of negotiations that are now pending between the Maritime Union and the American Marine Institute, which represents the shipping interests.

During the Civil War in Spain, we had a clause in our contracts, and the English Union also had a clause in theirs, which stated that every member of the crew of these merchant vessels would receive \$50 bonus for every port in the war zone which was hit by those

vessels, and we took it as defined as a war zone, in the Hydrographic Bureau reports of the Navy, our own Navy, and that is the standard that we based our claims on as a war zone.

Mr. ISAC. At that point, let me ask this question, please: Mr. Emerson, do you remember the incident in which an American ship carrying oil from Black Sea ports, I believe it was, was overtaken near Majorca, and taken into the port there, apparently by the rebels of Spain?

Mr. EMERSON. Yes, I remember the incident.

Mr. ISAC. And they put the captain and certain members of the crew in irons?

Mr. EMERSON. They put them all in jail; yes, sir—one of those men is now living in Washington, and his name is Frank Carpenter. He is employed here on a Government W. P. A. project.

Mr. ISAC. Now, was any bonus given to those men? That was an American ship, was it not?

Mr. EMERSON. Well, that ship was an American ship, and I cannot recall the name of the ship right now. There was a certain bonus paid to the crew of that ship, but the only reaction I have of it is that the report that came back from the crew as to the treatment that they received from the hands of the Nationalist faction in Spain was that they had been union men and union seamen coming from the United States they figured would naturally sympathize with the Loyalist Government, and all sorts of harsh treatment and physical injury was invoked upon those men.

I remember the case distinctly, those men are all back in America and I remember some of them recounting their experiences, particularly the one that is here in Washington and who now lives here.

Mr. JOHNSON. What year was that?

Mr. ISAC. Just the last year.

Mr. EMERSON. And I might say that they paid very little attention to us having a Navy or anything at the time, and I know that that ship did send out calls for help and did not receive any help because we did not have any ships in that vicinity.

We have always looked upon the Navy, and I would like to speak about that next, as the power which will back us up when we need them, and we do not look upon ourselves as being an auxiliary of the Navy.

Mr. BLOOM. Pardon me, please, members of the committee, we have just received word that it is very necessary for us to be on the floor, there is an important vote coming up.

Mr. Emerson, could you come back at some other day and finish your statement? We do not want to disturb you, but this message just came in. Could you come at a little later time and also bring any suggested amendments of any kind that you would like to submit to the committee?

Mr. EMERSON. I would if I have to submit amendments to the various bills, but it will be very difficult.

Mr. BLOOM. Well, whatever you think should be necessary, will you give us your ideas of how the law could be amended so as to protect the seamen that you represent?

The committee will stand adjourned until tomorrow at 10 a. m. I want to thank you very much.

(Whereupon, at 4 p. m., the committee adjourned until Wednesday April 26, 1939, at 10 a. m.)

## AMERICAN NEUTRALITY POLICY

WEDNESDAY, APRIL 26, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
Washington, D. C.

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding, for further consideration of bills to amend the Neutrality Act.

Mr. BLOOM. The committee will come to order.

You will remember, yesterday afternoon Mr. Emerson was testifying, and a call came from the House, and we had to leave.

For the benefit of those who were not here yesterday Mr. Emerson represents the maritime unions of the C. I. O., and he has quite an interesting story.

Proceed, Mr. Emerson.

### STATEMENT OF RALPH W. EMERSON, LEGISLATIVE REPRESENTATIVE OF THE JOINT MARITIME COMMITTEE OF THE C. I. O.— Resumed

Mr. EMERSON. Well, resuming from yesterday, I might say for the record that the ship that Mr. Izac inquired about was the *Nantucket Chief*. That was the ship on which an American crew, carrying a cargo of oil from the Black Sea to the Spanish coast, was captured by the Nationalist faction in Spain, and the crew were imprisoned, and the captain was put—I understand from what I looked up last night, the captain was practically put on a bread and water diet, and put in a cell, and beaten unmercifully.

Mr. EATON. An American citizen.

Mr. EMERSON. They were all American citizens.

Mr. VORYS. What was the ship?

Mr. EMERSON. The *Nantucket Chief*.

Mr. JOHNSON. Who took them in charge?

Mr. EMERSON. The now government of Spain—the Nationalist faction.

And in answer to Mr. Shanley's inquiry regarding the war risk, I might say that I have not got that decision of the British umpire in that case, but there was an article in a late issue of the paper called *The Seaman* of the National Union of Seamen of England, in which it stated that all British underwriters had applied the war risk to all European shipping, and it is in effect just as though there was a war.

Mr. JOHNSON. Mr. Shanley's question was with reference to the Orient.

Mr. SHANLEY. Yes, the Orient.

Mr. EMERSON. This means that the underwriters have applied the war risk to all shipping going out of England.

Mr. JOHNSON. To Europe as well as the Orient?

Mr. EMERSON. They had it on the Spanish coast anyway. The blockage brought that on.

First I would like to state that insofar as the merchant marine seamen, who are concerned who are members of the union we have gone on record before many congressional committees, that in the event of a national emergency in which this country was in eril, we would back up our Navy 100 percent. There seems to be a fallacy existing that the merchant marine was created as an auxiliary to the Navy. Well, that might have existed several centuries ago when the Phoenicians were the ruling maritime power in the Mediterranean, because they used war galleys primarily for conquest purposes; trade was a secondary matter.

That situation seemed to follow through for quite a number of centuries, until we find the British, up to the last century, using combination vessels, armed merchantmen, and it is only in the last hundred years that we have differentiated between the merchant marine and the Navy, so to speak, and England led the way in that.

It has always been our impression that the Navy was built for the purpose of protecting our foreign-trade routes and therefore it was built to protect the merchant marine, and not that we build the merchant marine to be used as auxiliary vessels and transports in case of war, because if we are just building a merchant marine to be an auxiliary to the Navy we might as well not build any Navy or merchant marine either, but we feel that with the large foreign trade that this country has with other nations that it is absolutely necessary for us to have a large merchant marine, and also it is necessary to have a Navy that will go out and protect that merchant marine when it needs protection.

Now, this leads up to a question I have heard discussed here by various witnesses in regard to what they deem—I do not know—maybe they mean isolation.

We have always taken the position that there is no such thing as neutrality. I have heard another witness say the same thing, that he thought neutrality was a misnomer, because we look at it this way:

Our export trade during the year 1938 totaled in American value, \$3,094,000,000 worth of goods.

Mr. BLOOM. Carried on ships, the entire export trade?

Mr. EMERSON. That is our entire export trade, including that sent to Canada. That is \$3,000,000,000.

Mr. SHANLEY. What percentage was carried by American ships?

Mr. EMERSON. We are carrying less than 30 percent on American ships.

Mr. EATON. A great deal of that trade goes by rail; for instance, into Canada does it not?

Mr. EMERSON. Not a large percentage of this three billion; no, sir.

Mr. JOHNSON. About what percentage?

Mr. EMERSON. I could not give the exact figures on that, because there is not so much stuff that is sent up to Canada, for reexport there by water, because most of the stuff we send out by water is exported direct from American ports.

Mr. JOHNSON. Canada buys for their own consumption.

Mr. EMERSON. And so does Mexico, but it is a small proportion compared to what we export to the rest of the world.

Mr. BLOOM. If you do not mind an interruption there—you say that 30 percent of that export would go on American ships. Is that right?

Mr. EMERSON. Yes, sir.

Mr. BLOOM. Now, what is the percentage of American ships registered against the ships of all nations that operate in this country?

Mr. EMERSON. You mean merchant ships?

Mr. BLOOM. It might mean that 30 percent is a pretty good average. In other words, what is America's percentage of the ships, that carry this freight, or these goods against the percentage of foreign ships who leave American ports?

Mr. EMERSON. I can get the exact figures, but our percentage is low. It is hard to judge, and give an exact figure right now, for the reason that the Maritime Commission, which is building a new merchant fleet, has some of their ships completed, and others are under way, and well, they are operating partly on the theory that in a year we will be at least second or third on the high seas, we hope, but right now our percentage is quite low.

Mr. BLOOM. If our percentage is low, and we carry 30 percent of all of the export business, then we are carrying a good percentage.

Mr. EMERSON. We are not, for this reason, that there are companies which have chartered foreign merchant ships, foreign bottoms, to carry our American commerce out of this country, in preference to using American bottoms, which are laid up and idle, and they do that because they can employ cheap alien labor and thereby cut down their operating costs, in spite of the fact that they are making American profits. It is an involved situation, and it would take some time.

Mr. BLOOM. That does not enter into the subject, so let us get down to neutrality.

Mr. EMERSON. Now, as I say, I have heard a great many witnesses advance many theories, and I often wonder what would happen if we adopted some of the ideas that I have heard, because I think that a great many of these people must have got their facts and data from newspaper headlines. Let us say for example, we adopted some of the ideas that have been advanced here, and we did follow what we call a path of strict neutrality.

Well, there is only one way that we look at it from a maritime point of view. First, we say that as long as there are international boundaries separating various countries, creating nationalistic feeling, and as long as there are various people speaking various languages, who have to protect their own economic interests, as against competition with other people, then as long as that situation exists there will be differences which will lead to war. There is no getting away from that, and I do not think anybody would dispute that fact.

With that situation facing us as a reality and knowing that the millenium is not going to come tomorrow, and that we are still going to be faced with differences of opinion, between nations, we have to take into consideration the fact that when an industrial nation is producing a surplus of goods which we cannot use ourselves, we have got to find a market for that produce.

Therefore, we go abroad, and establish ourselves in the markets of the world. Hitler in Germany is doing the same thing, and Japan is

doing the same thing. We, of economic necessity must, go abroad and participate in world affairs, and cannot become isolationists and stay at home.

What would happen if we stayed at home? You would have \$3,094,000,000 worth of goods that would not be going out of this country in 1938. That would mean that several million workers would not receive pay envelopes for producing the goods that we exported, and instead of having 10,000,000 people on relief, we would have 50,000,000 people on relief, if we adopted such a policy of staying at home.

Mr. RICHARDS. May I ask a question right there? You stated just before, that two-thirds of this three billion plus trade was carried in foreign ships anyway.

Mr. EMERSON. It would not make much difference what ships it was carried in, if we adopted a policy of stay-at-home, and confining ourselves to this country, why we would not have any business in the world at all. We have to have people abroad, and every big American company has representatives all over the world. I do not like the policies of some of them.

Mr. JOHNSON. It was cargo that you were talking about, not the ships.

Mr. EMERSON. We export it, and therefore if we did not export it, we would not produce it.

Mr. BLOOM. What is the percentage of \$3,000,000,000 against the volume of business that this country does altogether?

Mr. EMERSON. I have not the figures on that, sir.

Mr. BLOOM. Where do you get your 50,000,000 people that would be out of work?

Mr. EMERSON. I look at it this way, that at least 40,000,000 would be affected in this country if our industry was curtailed to such an extent that we cut off \$3,000,000,000 worth of production.

Mr. BLOOM. The most important point there to my mind is that when you take out of manufacture \$3,000,000,000 worth of goods, you are going to necessarily, automatically, raise the price, and the cost of merchandise in this country, because when you only manufacture 50 percent of your volume, automatically the price of goods in this country goes up, even without considering the loss in exports, so you are right there.

Mr. IZAC. Mr. Chairman, I would like to ask Mr. Emerson this question:

Of course, we often figure that we should have trade and business as usual, even though there is a war going on, but do you not think that the interests of the seamen themselves, and the whole merchant marine, in case of a conflagration in Europe, would be best served by our remaining out of it.

Mr. EMERSON. It is to our advantage, and as far as the seamen are concerned, they do not like carrying, even with a war bonus, materials to warring nations. They do not like it. We have to do it to make a living.

Mr. IZAC. Therefore, under the isolationist policy, even if there were a war abroad that affected most of the rest of the world, the Western Hemisphere would give some employment to the seamen that you represent, would it not?

Mr. EMERSON. It would to some extent.



Mr. IZAC. In other words, we could turn to South America if we must have trade, and we must have profits, and business as usual in time of war. We could appease our people to that extent by more profoundly interesting ourselves in the affairs of the Western Hemisphere?

Mr. EMERSON. That is true.

Mr. IZAC. Now, to that extent, the isolationist policy would perhaps keep us out of this foreign entanglement that we envision now in the European horizon?

Mr. EMERSON. That is true, but at the same time we have nations like Japan and Germany, vying with the United States for world trade, world-wide, everywhere, and competing with them, and if we are not placed in a position where we can go out and hold our own with those people, we are gradually going to become decadent. We cannot help it.

Mr. IZAC. Would you not say, then, in time of war, it is a good idea to be isolationist and in time of peace we should trade with all of the world?

Mr. EMERSON. Well, I will tell you, as I said, we do not like to get mixed up in these situations; we are the people that are out on a limb, and have been all the time, but at the same time we realize that as an industrial nation, and to keep our place on the face of the earth, we have got to go out and mix. We cannot become total hermits among the council of nations, because if we do, in time no nation has ever survived such a policy, that I know of, and there is nothing to prove that a nation could survive a policy of total isolation.

Mr. VORYS. Mr. Chairman, could I ask this question? Which of these neutrality laws before us would the seamen prefer us to enact, or if they do not approve of any of these, have you a suggestion?

Mr. EMERSON. I think that there are a great many good ideas and thoughts in practically every one of these bills and I think that a bill could come out of these various suggestions here, that would steer us through a clear path, so that we would not ever have to be called absolute collectivists or absolute isolationists.

Mr. VORYS. How do you stand on cash and carry?

Mr. EMERSON. I was going to come down to that a little later.

Mr. BLOOM. You heard what Mr. Johnson said about you?

Mr. JOHNSON. I said he acted like a politician.

Mr. BLOOM. You are not going to give us all of these ideas this morning, are you?

Mr. SHANLEY. Naturally, I am interested in the way the British have handled their trade through the centuries, because they probably have perfected that angle of their industrial as well as their commercial system. Now, what attitude do the British seamen take?

Mr. EMERSON. They have taken the same attitude that we have, although I might say frankly that American, British, and Norwegian, and other seamen will go all over the world and see a great deal and report it back to their various unions, and we have certainly taken the stand that we are against aggressor nations, and we have named our own aggressor nations, whether anybody else has or not; those have been Germany and Japan.

Mr. SHANLEY. Is there any feeling among seamen of the world that the British are able to deliver their goods where other nations fall down?

Mr. EMERSON. There is. The British seamen feel that they have the British Navy completely behind them at all times, although in the British situation, it was proved that the British Navy did not do too much to help them.

Mr. IZAC. They did not do anything.

Mr. EMERSON. And there are a lot of repercussions in the seamen papers about that.

Mr. SHANLEY. Does that develop an esprit de corps among British seaman, that they are rather proud of?

Mr. EMERSON. They were, but their pride has suffered quite a blow.

Mr. SHANLEY. Would our American seamen, have the same feeling and esprit de corps, knowing that our Navy was out there to defend them?

Mr. EMERSON. We have always felt so, and we hope so, and we do not want to be placed in a position where we will be without the protection of our Navy backed by a militant diplomatic stand.

Mr. SHANLEY. Now, granted that, how far can we go in the diminution of our exports in order to protect our seamen? You heard the grandiloquent patriot who talked about the freedom of the seas. Those boys out there on the masthead cannot be so theatrical.

Mr. EMERSON. I took the rap all during the last war on a British transport, so I know what it is out there. Their point of view on that is that they do feel that we cannot isolate ourselves completely.

We cannot—I mean American seamen, and just close up the American merchant marine, which has cost this country millions of dollars, but they do feel that we should follow a policy that would give somebody in this country, or at least I could revamp that and say that somebody should be given the authority to act quickly in time of emergency, so that when a situation arises, where they do not know whether they should go with the cargo of war material or not, someone will say, here, one of these nations is an aggressor nation, and the other is being attacked, and therefore we will name this aggressor nation, and we will not deal with that nation.

Mr. SHANLEY. Now, under section 6 of our present bill, we have a cash-and-carry provision, and that prevents these articles being carried in American vessels under certain conditions. How would your men feel about that?

Mr. EMERSON. I will take that up right now. As far as the cash is concerned, we certainly think that the interests of this country should be protected in receiving payment for whatever goods we send abroad, but the carry business is a peculiar situation. Now, I will give you an example of this "carry" of goods.

During the Spanish conflict, it was found that American crews did not care to go to Spain with cargoes of war materials, so those interests which carried to make a profit out of that conflict, chartered foreign ships to come in here and take that material over. I recall a very notable case of a Norwegian ship that was chartered to come in here and the crew of that ship did not know where they were going until they got to Baltimore, and discovered they were loading war material, whereupon they promptly walked off the ship, and they were charged with desertion and everything else, and they managed to hold their own and they were discharged and sent back to their own country.

Once you are away from your own country on one of these tramp ships, the master's authority rules, and if he says that he is going into a port and load a cargo of material, and says we are going to a place, we go there, and if the crew objects, they are charged with mutiny or some other similar charge, and as the master is a representative of the company which is making a high profit for carrying that material, he has nothing to say either, because he wants to keep his job, and gets his bonus out of it and the result is that when you start to put a specific clause in with regard to how this material will be carried, you will find it will run into all kinds of complications.

I will give you another angle on that, in regard to oil. I have heard witnesses give the impression that they think we are sending oil directly to Japan. We are not. Very little oil is going directly from this country to Japan, but it is going from American companies to Japan, through transshipments to other affiliated companies, because oil is an international affair, and Standard Oil has a connection with Shell Oil, and the Dutch Oil, and all of those others out in the East Indies, and it is a simple matter for them to go to a loading station out there in the Far East, deposit their oil, and have it pumped out of the tankers, and have another foreign tanker pick it up and take it to Japan, and that is the way a great majority of your oil is going.

MR. BLOOM. Would you mind an interruption? I just want to say this, then, if the Department of Commerce records show that we are exporting so many millions of gallons or so many millions of dollars' worth of oil to Japan, that the records that we receive from the Department of Commerce are not correct?

MR. EMERSON. They could not be, for the reason that Japan is getting even more oil than that.

MR. BLOOM. From this country?

MR. EMERSON. Indirectly, through transshipments. I can give you a very good example. I stood on the dock of a certain Latin-American ship some years ago, and saw an American ship come in with planes, crated planes. They were deposited on the dock very gently, and they were consigned on the label there to the Minister of War of that country.

MR. BLOOM. Stick to oil, please.

MR. EMERSON. This is a specific example of how they do that. That night a Japanese ship pulled in, and they put the planes aboard there and took them to Japan; so if you can find certain foreign officials, in certain governments, that will want to make a few dollars for themselves, why naturally they can transship that stuff forever, and that is a hard loophole to plug, either in regard to planes or any other munition or oil or anything else.

MR. BLOOM. You dispute the figures given out by the Department of Commerce with reference to the amount of oil that we export to Japan, is that right?

MR. EMERSON. I would say that their figures are as correct as they can get them, and they not only have the figures on the oil which goes directly to Japan, but they do not have the figures on the oil which is sent out and transshipped through various agencies until it finally reaches Japan.

MR. JOHNSON. If we should pass legislation, and prohibit the shipment of oil, you think that it could not be enforced?

Mr. EMERSON. It would curtail it, and you might as well face the fact that it would not stop it altogether.

Mr. IZAC. Have we sufficient oil reserves in the Straits Settlements, for instance, or Hong Kong, or Shanghai, that could be transshipped to Japan for we will say, 6 months' war there, without any leaving the United States?

Mr. EMERSON. I could not say on that. I mean I would not be able to say, except that I do know that this process does go on to a certain extent.

Mr. IZAC. The testimony here, if you will bear with me, Mr. Chairman, has been that we are sending this oil over there, and if we would shut down on the exportation of this oil, it would end the war in Japan in about 3 or 6 months.

Mr. EMERSON. Perhaps it is possible, because the British control the oil that comes from the other way, and they control the oil that goes down through India and past there, the British, and the Dutch, the Shell Oil, and the Dutch Petroleum, control there.

Mr. IZAC. Even if we did clamp down on embargo, they would still get the oil from the depots that we have in other places?

Mr. EMERSON. They would get some, but not as much.

Mr. BLOOM. They are getting it now through the same sources.

Mr. EMERSON. Through all sources, sir.

Mr. BLOOM. I think Mr. Izac is asking the question, whether they would get the oil, they are getting now through these other sources that you mentioned before, outside of what they are getting directly from the United States.

Mr. EMERSON. Yes, sir.

Mr. SHANLEY. Have you heard of any suspicion of an international pool of oil and munitions, in which the shipments are made by telegraph much as we transmit our foreign exchange, in which the Anglo-Persian oil may be shifted from a point in Indochina, right over, without any actual transmission?

Mr. EMERSON. We have heard of things like that, but of course that is the thing—we only see the things that are out on the coast.

Mr. SHANLEY. But you have heard of it?

Mr. EMERSON. Yes.

Mr. JOHNSON. With reference to the statement that you made about the transshipment of oil from other countries—shipped from the United States to some other country, and reshipped—have you any figures or statistics on that or is that just based upon your knowledge of isolated instances that come to your attention?

Mr. EMERSON. It is based upon the fact that our men see these various stations and they know that certain ships go in there, and leave the oil, and they know that others pick it up; that is all.

Mr. JOHNSON. Go in where?

Mr. EMERSON. On how big a scale it is done we cannot know because we are only in there for a short time.

Mr. JOHNSON. It is only based on their estimates unless you had some definite information. You only have reports of this being carried on?

Mr. EMERSON. That is correct.

Mr. JOHNSON. For instance, from ports in the United States it is taken and then reloaded in what places? Have you any information?

Mr. EMERSON. There is a great deal of oil taken from the United States and Venezuela, and transshipped through some—I do not

know how—through some agency, at Aruba, and Trinidad, and also transhipped through stations out in the East Indies, controlled by the Dutch and British, but I do not know the mechanics of the procedure; all I know is our men have taken cargoes of that oil there and left it there, and they have seen others loading when they were pumping it out, other foreign tankers were pumping out oil.

Mr. BLOOM. I wish that you would proceed now on neutrality, please, Mr. Emerson.

Mr. EMERSON. As I stated, we feel that some course should be pursued whereby our interests will be protected at home, and yet at the same time we will follow such a course that we will attempt in every instance to keep out of war if we can. Now, if we cannot keep out of war, gentlemen, just cannot keep out, and there is no getting away from that fact, there is no use backing all the time like Chamberlain and finding yourself in a bigger hole. The American seamen are proud of the fact that they can hold their own any place in the world and if we have to fight we are going to fight, that is all that there is to it, if we are forced to do it.

Mr. VORYS. You were starting to say what you thought of cash and carry. Now, there are two general proposals: One is that we have cash and carry, which would mean tying up our ships as far as foreign trade to belligerents is concerned. The other idea would be, and it has been expressed a number of times here, that we let our ships go but go at their own risk. That is, to a belligerent.

Now, what would your people think of that?

Mr. EMERSON. I will tell you frankly what we would think of it. We are not going at our own risk any more. We have got to have protection if we are going out there. We have been put on the spot enough for that already, and as I stated yesterday we have still got around 1,800 claims pending against Germany, from the World War, for American seamen who were on ships that were torpedoed, and we feel if this country's policy is going to be such that we are going to send shipping out on American ships, or cargoes on American ships, we are entitled to the protection of this country, and this country's armed forces, if necessary.

Mr. EATON. I would like to ask the witness—I was greatly interested in his discourse. Does he espouse the old-fashioned and out-moded notion that an American citizen who goes about his lawful business anywhere in the world is entitled to the protection of his Government?

Mr. EMERSON. Who goes about business for his own country?

Mr. EATON. Yes. You do not expect, do you, that the American Government would think of protecting its sailors when they go outside of our country?

Mr. EMERSON. We certainly do, insofar as the fact is concerned, that the American taxpayers' money has built this merchant marine, and it is practically Government property, and we certainly think that we should get some protection. I hope so.

Mr. EATON. I am strongly, personally, in favor of that. I do not want this country to create a large cyclone cellar and crawl into it, and say that we are out of the world. I think when our sailors go abroad their flag ought to mean something; they ought to be protected.

Mr. RICHARDS. Well, then, do you mean to go so far as to say that you favor a policy of our ships going anywhere, at any time, even if there is a war anywhere in the world, whether it involved us or not,

and that we enforce that policy by backing it up by our Navy, and our Army, even to the extent of going to war?

Mr. EMERSON. We did say—or I did state previously,—that we hoped that something would come out of this proposed legislation which would give some power in this country, or authority to somebody in this country, who could take definite and quick action so that we would not become involved, and we would know where we stand. I mean, for example, let us say that Japan today is just declaring war against China and we are starting with some cargo for Japan. Now, would it not be the best policy to have some authority in this country to be able to say, Japan is an aggressor, and we name that aggressor, and therefore we do not trade with it, and any ship that leaves this country in contravention to the fact that we have named Japan as an aggressor and that ship is billed for Japan, then that ship goes at its own risk, and then what we say is, we would like to have a clause in any such law as that so that the American seamen would not be charged with mutiny if they refused to sail on such a ship going in contravention to the order, say, of the President or the Congress.

Mr. RICHARDS. I gather that you are in favor of designating aggressor nations.

Mr. EMERSON. Yes, sir.

Mr. RICHARDS. Now, suppose this Congress does not see fit to pass legislation that would allow the designation of an aggressor nation, would you be in favor, then, of going right back to the old doctrine of enforcing our right to go anywhere, by arms?

Mr. EMERSON. We are not in favor of it, but our men have got to make a living, that is the main part, we have to make a living.

They are out on the ships. If the policy of this country is such that they say to us, or they say to the maritime interests, here, we can send our ships anywhere, we say again, but give us the Navy to protect them, and we will go anywhere, that is all. We have to have that.

Mr. RICHARDS. During the World War, you know we built a lot of ships, and temporarily that helped our maritime interests, and our seamen?

Mr. EMERSON. Yes, sir.

Mr. RICHARDS. Now, under the advice of England, we built ships that were just about 6,000 tons, I understand, and then when the war was over our seamen were in worse fix than they ever were before, because they could not operate these ships economically.

Mr. EMERSON. That is right.

Mr. RICHARDS. Now, therefore, did any good come out of that for the seamen?

Mr. EMERSON. Very little. Only temporary good. Nothing for the future.

Mr. RICHARDS. And it is only recently that we have embarked upon a policy of really doing something for the merchant marine again?

Mr. EMERSON. That is right.

Mr. VORYS. You spoke about wanting a law that would prevent seamen from being charged with mutiny if they refused to go into a place of danger. I wonder what your comment would be on the criticism here of our merchant marine—that is the fact that our seamen demand higher pay, and have less discipline, than other seamen, has caused the eclipse of our merchant marine?

MR. EMERSON. That is an exaggerated view of some people for the reason if you study the maritime industry, you will find in the operation of the ship the pay roll of that ship is less than 20 percent of the whole operating cost, and it is one of the smaller factors, wages and subsistence for seamen and crews on ships is approximately, or a little less in some cases, than 20 percent of the total cost of the operation of the ships, and insofar as the discipline is concerned, I might say that we lead the world in safety at sea, for in the last 3½ years, all of the millions of people transported, there has only been one person lost, one passenger, in the last 3 years, since the *Morro Castle* disaster.

MR. VORYS. How about strikes on ships?

MR. EMERSON. Well, now you are getting into a domestic situation, domestic labor situation.

MR. VORYS. Is that domestic? I do not know.

MR. EMERSON. It is domestic; yes, sir, that is a domestic situation, the same as happens between an employer and an employee in a factory or anywhere else, there have been strikes, and there is one in progress right now.

MR. VORYS. When a ship is anywhere out of its port, a strike is either a strike or mutiny, is it not?

MR. EMERSON. We have gone on record saying that the minute a ship is out at sea, cleared for the high seas, that the master is in supreme command, and there cannot be any denying his order. If there are any complaints or anything, they can be adjusted when the ship returns, and we certainly do not condone any such things as strikes on the high seas because that is purely mutiny.

What we object to is having labor disputes when a ship is tied up at the dock, being construed as mutiny, that is the only thing.

MR. VORYS. Does that mean just American docks, or in a foreign port?

MR. EMERSON. It would mean, naturally, if there are any "beefs" in a foreign port—what we call "beefs" or complaints, they are adjusted when the ship returns to America, except in one case, in the case of an international situation, in which it is well known, the so-called mutiny case, where the seamen did not want to go and work behind a picket line, it was dangerous to do so, because down in Uruguay where that strike took place, the picket line is different than it is in this country; I saw a picket line formed in Uruguay once on the docks, and the men had a complaint and they quit work, and they all ran away, and I did not know what they were running for, they were all running home to get their rifles, and I do not think that there is anybody here that would care to take a chance working behind that kind of a picket line.

MR. BLOOM. Did I understand you to say in case the crew refuses to continue work on a ship, not receiving the protection of the American flag, before sailing, that they would be charged with mutiny?

MR. EMERSON. They could be under our admiralty law.

MR. BLOOM. Now, then, a ship in San Francisco, or New York, if the crew refuses to sail on that ship because they do not receive the protection of their Government, they could be charged with Mutiny?

MR. EMERSON. Yes; under our present laws.

MR. BLOOM. That is a new one on me. Mr. Vorys asked you that question.

Mr. EMERSON. I mean, if this was a ship—I will try to make it clear. We will say that we have passed a bill here, where the President had the authority to name an aggressor nation, and the President named a certain aggressor nation, and any ship sailing in contravention to the President's order did so at its own risk, that would not affect us over here, whether the President gave such an order or not, because we are already signed on articles to sail, and the master of the ship could say to us, "Well, you are signed on. Under admiralty law you will be charged with desertion if you leave," and if they refuse to work they might be charged with mutiny, and that would not have anything to do with the President's order, that would be a question in admiralty, and we would be left out on a limb right there.

Mr. BLOOM. May I ask this question: Are you a practical seaman?

Mr. EMERSON. I have been to sea 21 years.

Mr. BLOOM. Twenty-one years?

Mr. EMERSON. Yes.

Mr. BLOOM. Proceed, Mr. Emerson.

Mr. EMERSON. We would like to reiterate the fact that we feel that it will be disastrous for us to adopt a complete policy of isolation, and I would say, speaking personally for myself, I would give this country about 20 years at the most before we would entirely collapse, that is, financially and economically, at home, if we did not go out in the world and deal with the other nations of the world, in exchange and trade.

It seems that it appears here from the testimony of some of the experts on this subject, who have been evidently in this field for a great many years, that they are now suffering from a frustration complex due to the failure of the League of Nations to function, and it seems that from what I gather, just sitting back casually observing, that they are still wondering what policy we are going to pursue, and therefore follows the fact that many suggestions have come before this committee, and I am not an expert on this at all, all I can talk about is what I have seen, what reports are brought to us, and what we know exists in foreign countries.

Mr. BLOOM. I can assure you that you are not out on a limb by yourself.

Mr. IZAC. He has lots of company, Mr. Chairman.

Mr. EMERSON. As I stated before, we cannot see where there can be any neutrality from our viewpoint at all, because to be absolutely neutral you have to treat everybody alike, and we have always noticed that the countries which we trade with the most, and which in turn reciprocate, and where we have an advantage to gain financially, which we could not gain from any other country, we therefore always seem to favor that country. I have noticed that time and time again, and the same goes for other nations, if you go abroad you see in the various foreign ports, where one nation, say for example, Argentina, which used to be very favorable to England—we go into the port of Buenos Aires and we see 21 British ships to 1 American ship, all flying the British flag, and there would be British newspapers there, commercial attachés would be busy gathering trade, and they are out there to get it, and they intend to get it, and the only way that we can compete with them is to out ourselves, and go in there, in a friendly way.

We do not have to go to war, I hope, just because we go out and trade with these other nations. We cannot see any way out of not going into international trade, and still existing.



Now, we have seen a woeful lack of protection coming to us from our State Department, in regard to these international situations, and in fact we have had very little protection from them at all. We have a man right now, an American citizen, lying in a concentration camp in Germany, who was taken off an American ship at Hamburg. He had never left that ship, but he was taken off by the German police, and our State Department did not do anything, and we protested, and argued, and fought, down there, and the only thing we did get, we put so much heat on the German Government, that they managed to give him a short 3 months' sentence.

Mr. SHANLEY. Was he a reservist?

Mr. EMERSON. I cannot say, because we have not got him back. We are trying to get him back, to find out what he is.

Mr. SHANLEY. You know the doctrine of reservists is a mooted question today, so they might have taken him because he was a German reservist.

Mr. EMERSON. I will give you the actual facts that happened in that case. That man was on the steamship *Washington*—he had not gone ashore, he was down in the hold, where they were taking up cargo, and reading a French newspaper, and a German stevedore asked him to let him see the newspaper and he handed it to him and he asked if he could keep it and he said yes, and the German stevedore happened to be a Nazi spy, and he told the German police that this man had a communist paper. It turned out afterward to be a Socialist paper so that the German police came right aboard and dragged the man out and hauled him off the ship.

Mr. SHANLEY. Flying the American flag?

Mr. JOHNSON. Was the man a native of Germany?

Mr. EMERSON. A fully naturalized American citizen. He was born somewhere in Europe, but a fully naturalized citizen.

Mr. JOHNSON. This is in what port?

Mr. EMERSON. Hamburg.

Mr. SHANLEY. Have you got his name?

Mr. EMERSON. I have not got it right here. It only happened 3 or 4 months ago.

Mr. BLOOM. Will you furnish the name for the benefit of the committee?

Mr. EMERSON. There was a piece in the Congressional Record about 2 months ago.

Mr. STEARNS. Up to date his American citizenship as a protection is not worth the paper it is written on; they invaded our territory when they came aboard our ship, flying our flag.

Mr. EMERSON. We had quite a number of instances of that as I was telling Mr. Izac yesterday. In 1925 there was another man in a German port over there, and he stuck his head out of one of the large portholes, and he was hollering to somebody on the dock and the German police thought he was insulting them and they shot him right there, on an American ship, and nothing was ever done about that.

Mr. EATON. Did they kill him?

Mr. EMERSON. Absolutely.

Mr. SHANLEY. No indemnity?

Mr. EMERSON. At that time the unions were not very strongly organized, and it was everybody for himself; that happened in 1925, in Germany.

Mr. JOHNSON. Before Hitler?

Mr. EMERSON. Yes. It just shows the lack of protection we get sometimes, where we fall down on our foreign policy in protecting our nationals.

Now, if we are not going to give them protection, you cannot expect them to have confidence in the Government, and the result is going to be that you cannot expect to have a competent, first-class merchant marine, because you will not get the type of people to go into it.

Mr. SHANLEY. Do you think it is a duty on the body of people who deal directly with the Maritime Commission, to intercede?

Mr. EMERSON. The Maritime Commission has no authority in this case.

Mr. SHANLEY. But it goes to the Department of State, as being more closely connected with this incident.

Mr. EMERSON. The Maritime Commission only has jurisdiction over certain types of merchant marine vessels. They have a certain amount of jurisdiction over the ones that receive a subsidy and they have some supervision over those that they operate.

Mr. SHANLEY. But they have full supervision over the S. S. *Washington*.

Mr. EMERSON. No; that is privately owned and operated by the subsidy, that is our largest passenger ship.

Mr. SHANLEY. I wonder if they should not be your man in court?

Mr. EMERSON. We have done everything that we can. We have gone directly to the State Department, and we have had every Government agency we can think of to help us and yet there it is. After all, the truth of the matter is that this happened right after we had imprisoned for 4 years certain German spies and it looked to us like this was just a slap in the face at us for doing that.

Mr. BLOOM. We gave the spies a fair trial.

Mr. EMERSON. We were told that our man got a fair trial and they put the word "fair" in quotes.

(Mr. Shanley inserted the following letter for the record:)

DEPARTMENT OF STATE,  
Washington, May 8, 1939.

HON. JAMES A. SHANLEY,  
House of Representatives.

MY DEAR MR. SHANLEY: I have your letter of April 28, 1939, referring to the testimony of Mr. Ralph W. Emerson before the Foreign Affairs Committee with reference to an American citizen arrested in Hamburg, Germany. You request information concerning this matter.

It appears from your letter that the testimony mentioned refers to the case of Mr. George Roth, an American seaman who was a member of the crew of the steamship *Washington*, and I am glad to furnish below the information concerning this case as revealed in the files of this Department.

According to reports received from the American Consulate General at Hamburg, Mr. George Roth was arrested by the German authorities on November 29, 1938, on the charge of distribution of communistic propaganda pamphlets in contravention of the penal laws of Germany. Upon the receipt of the news of Mr. Roth's arrest, this Department issued prompt instructions by telegraph on December 2 to the American Embassy and consulate general at Berlin and to the consulate general at Hamburg to render all appropriate assistance and protection and to take all proper steps to safeguard the legal rights of Mr. Roth. Mr. Roth retained an attorney of his own selection for his defense, and his trial was held at

Hamburg on January 14, 1939. The American consul general at Hamburg has reported by cable that the court found Mr. Roth guilty under paragraph 86 of the Revised German Penal Code of distributing communistic literature on board a foreign vessel lying in a German port, and sentenced him to 6 months imprisonment with 6 weeks credit for the period of his detention awaiting trial.

Under the accepted principles of international law, a foreign merchant vessel and its occupants are, upon entering a foreign port, subject to the operation of the civil as well as the criminal law of the State; and I may add that we should undoubtedly deny the right of any foreign power to demand the exemption from trial and punishment by our courts of one of its citizens who had committed a contravention of our laws on board of a foreign trading vessel in one of our harbors.

Since the arrest of Mr. Roth at Hamburg his case has had the constant attention of this Department as well as the Embassy and consulate general at Berlin and the consulate general at Hamburg and, while this Government cannot interpose objection to the arrest and trial of its citizens charged with the contravention of the law of a foreign country whose jurisdiction they have entered, all appropriate steps have been taken and will continue to be taken to assist Mr. Roth.

Subsequent to Mr. Roth's trial our consul general at Hamburg has reported that on February 24, 1939, Mr. Roth's attorney, Dr. Herbert Wielekens, filed a petition for pardon which was denied by the Hanseatisches Oberlandesgericht on April 6, 1939. The consul general has also reported that Mr. Roth's sentence will expire on May 30, 1939.

Sincerely yours,

CORDELL HULL.

Mr. BLOOM. Proceed. I just want to say that we have other witnesses.

Mr. EMERSON. A little clause in their giving us protection in any foreign policy that was enunciated by this country, and giving us the right to expect that protection, and also that we would not have to go beyond the protection that you would give.

Mr. JOHNSON. What kind of protection? You cannot just say that we will give protection; you have got to say something more definite and complete. Have you thought of any provision?

Mr. EMERSON. Let us say that you adopt a policy and it becomes a law, in that policy just have a clause that no seaman on any American vessel would be obliged to go beyond the policies enunciated in any event. That would be protection enough, and naturally we have to abide by whatever policy this country goes by.

Mr. BLOOM. If you have your legal branch draft some kind of a resolution that would be germane to this act, the committee would be very glad to receive it.

Mr. EMERSON. In regard to the Japanese-Chinese situation, we certainly are strongly in favor of an embargo on Japan.

Mr. JOHNSON. You mean a complete embargo?

Mr. EMERSON. Yes. It is sickening to seamen to have to be requested to go through picket lines of little Chinese children, and women, and load that scrap iron, which is absolute war material, and nothing else, and they, just morally, they just do not want to do it in spite of contracts with employers. It is a hard thing to do, and I do not think that there is a man in this room who would care to do it.

Mr. JOHNSON. You are speaking for the C. I. O. on that?

Mr. EMERSON. Yes; I am speaking for the whole C. I. O.

Mr. IZAC. Now, may I ask a question?

Conditions being different, would your people on the west coast view this thing in a different light? Supposing for instance, that these munitions of war, and scrap iron and oil and so on, were not only loaded by your union members but also carried in American bottoms to Japan, which today employ your members, and they would then

be thrown out of employment by an embargo. Would they still be in favor of it?

Mr. EMERSON. Positively, yes; and the reason that we are not carrying it on American vessels is because they cannot get American crews to take it.

Mr. BLOOM. Proceed.

Mr. EMERSON. That is all, except one parting statement, that I guess is known to everybody, is the fact that from a seaman's viewpoint, international law is only as strong as the army and navy of the nation which wants to enforce international law.

Mr. SHANLEY. One question, please. What are the chances of some international agreement on wages and hours?

Mr. EMERSON. That is something that we look forward to in the future. We are attempting to raise the standards of foreign nations, insofar as their maritime wages are concerned. We attempted it at Geneva through the International Labor Conferences, and at the last session of the Congress the Senate passed several draft conventions, or concurred in them for this country, which would raise standards internationally, we hope, and of course everything depends on the position taken by the various participating countries. If they do not put laws on their own books, to carry out the provisions of these international conventions, why, then, the conventions will not mean much. We are doing ours in good faith, and we hope that we are leading the way.

Mr. SHANLEY. May I ask another question, because it carries out something that I want to find out about the air facilities of other countries. Is it not true that when you go into British ports, your are held to high accountability of the British maritime laws?

Mr. EMERSON. Yes.

Mr. SHANLEY. And I wanted to say that, because in the opposite of that, in our airplanes we are not, and that was responsible for the Cavalier disaster that occurred here. They hold us in shipping where we do not hold them in airplanes.

Mr. EMERSON. Thank you.

Mr. BLOOM. The committee thanks you very much, Mr. Emerson, for the benefit of having your information. It is a pleasure to have heard you, I assure you.

Mr. BLOOM. The next witness is Prof. Charles Cheney Hyde. Professor Hyde is from Columbia University.

#### STATEMENT OF PROF. CHARLES C. HYDE, OF COLUMBIA UNIVERSITY, NEW YORK, N. Y.

Professor HYDE. I do not represent anybody, and I had no intention of taking your time until I received such a cordial invitation from the chairman a fortnight ago to appear here, and I could not resist it, so I come here today with no panacea to offer, and no constructive suggestions, and only with the idea of perhaps reminding you of something that you are very familiar with, with respect to the law, and also with respect to some consequences of certain acts.

You face, and Congress faces, an amazingly strange situation in modifying the Neutrality Act of 1937 or making any new law, because we may be on the verge of a terrible conflict in which almost the whole mind of the United States has committed itself. We have already taken sides, or a great portion of the people have.

Now, that is a very dangerous situation, from a peace point of view, or from a neutrality point of view, because it shows great restiveness on the part of the people toward any restraints or duties which international law as such imposes. That is obvious. Again the strongest efforts are to be anticipated to aid as far as may be, without necessarily involving the country at war, a cause that is greatly favored. The situation differs from that in 1914, because then American sentiment was slow in developing. It was not until 1917 and long after the sinking of the *Lusitania*, and not until submarine warfare was at its worst after the *Arabic* and *Sussex* had been sunk, that opinion was strongly against one set of belligerents.

But now the situation is different, and you have the burden of attempting to make a law, when you will be terribly urged by ignorant persons to take a stand that will help a particular cause, regardless of the consequences.

MR. JOHNSON. As I understand you, you are contrasting the situation existing now, and the beginning of the World War, in 1914. At that time the Kaiser had committed no special acts of aggression by which the American people had been aroused, nor any feeling engendered. The feeling that was engendered as a result of the World War came as a result of acts committed after the World War began.

PROFESSOR HYDE. Long after.

MR. JOHNSON. Whereas at this time the point that you make is that there has already been, because of the acts of aggression that have inflamed the minds of the American people. A taking of sides.

PROFESSOR HYDE. There is a slight exception to that. I think that the invasion of Belgium in August of 1914 aroused some feeling against Germany.

MR. JOHNSON. That was subsequent to the beginning of the war, but it was not before.

PROFESSOR HYDE. But not until long afterwards.

I am just suggesting for your consideration that the man in the street assumes that there is no obligation on the part of the United States not to penalize a belligerent whose cause is disfavored, and which has committed acts that in our judgment as a nation are regarded with contempt and dislike and great dissatisfaction.

Now, you know very well, gentlemen, it is bringing coals to Newcastle—and forgive me if I remind you of what you know so well, that there is a law of neutrality, and that a country cannot change it, because it dislikes a particular group of belligerents.

Just a few suggestions, as to that law. For example, it is laid down in the books, as you know so well, that a government must be impartial. How hard it is for a government to be impartial, when the people are partial. You can not change public opinion when partiality of the people is based upon facts. Under such circumstances if a government struggles to be as impartial as it can, it is under a great handicap. Equally important is it that a government must not impartially participate; there must be no governmental participation; we cannot as a government for example, sell arms and munitions of war to either side.

We know that a state is not obliged to prevent, as a matter of international law, the exportation of munitions of war from its territory. But have you thought of this: The moment that a neutral country embarks on a policy of supporting a belligerent, or a group of

belligerents, indirectly by private means, that country obviously takes part in the war. You may rely upon a technicality of the law of neutrality and say that such conduct is not forbidden. Nevertheless a neutral country becomes an actual participant in the war when it permits its people and its resources which it can control, to be used to help one of the contestants, or even those on both sides of the conflict.

The law imposes no obligation on the part of a country like our own when neutral to prevent its own people from shipping munitions of war, to a belligerent country, but every neutrality proclamation from Washington's in 1793, down to Wilson's in 1915, has warned our people of the impropriety of certain unneutral services on the high seas. Moreover, our distinguished, friend, Judge John Bassett Moore, has made it clear that the right of an offended belligerent to capture a neutral ship carrying contraband to the enemy, and to seize the contraband cargo, and to penalize the vessel is proof that trade in contraband of war is, in the sense of international law, unlawful. I do not think that the man in the street quite realizes the character of private participation in war, as is undertaken by the individual, which his own government is not obliged to forbid. I do not think that he is aware of the wrongfulness of that participation when it calls for certain acts at sea, such as the carriage of contraband. It is an interesting thing that in some of our early treaties, such as one which I think that we concluded with Prussia in 1785, it was agreed that no citizen, subject or inhabitant of territory of one contracting party should take letters of marque from a third power for the arming of a vessel to act as a privateer against the other. Such arrangements were significant because they showed a readiness of our own country as a neutral state to exert itself to prevent certain forms of participation in war by persons within places under its control.

Please consider whether the Presidential proclamations referred to, as well as the comments of Judge Moore, and some of the provisions of our early treaties do not put us on our guard. Do they not warn the Congress as to the possible consequences of legislative laxity that might encourage the American people to have recourse to conduct that has been censured in such an authoritative way?

MR. SHANLEY. Professor, are you saying now that the right to ship is offset by the limits of contraband in blockade?

PROFESSOR HYDE. Will you say that again?

MR. SHANLEY. Is the right to ship arms and munitions offset by the duty of our shippers to obey the laws of contraband and the laws of blockade?

PROFESSOR HYDE. That is a hard question to answer. I am not sure that I could answer it as you put it.

MR. SHANLEY. This is what I am thinking of. If what you say is true, when our shipments to the Allies became so great in 1915 we were virtually belligerents. Do you consider that that was wrong? We were aiding their cause, and was that wrong, per se, and were the Germans right in maintaining that?

PROFESSOR HYDE. It was not wrong in a sense, and I would like to answer your question exactly. There was no legal duty on our part to prevent it, but there was a right on the part of every offender belligerent to capture such a vessel and such a cargo, to condemn the cargo. Is that clear?

Mr. SHANLEY. But there was a duty on our part to limit the contraband, though.

Professor HYDE. There was no duty on our part, to the outside world, to prevent that sort of thing being done, and there is not today. There is no duty on the part of the United States, if war should take place, to prevent that sort of thing. Now, may I go on, to my next step?

I would speak parenthetically, and say something about neutral rights, as distinct from neutral duties.

We have no right as a neutral to penalize a belligerent whose cause we dislike or whose philosophy we are inclined to oppose. Yet there is an apparent exception to this. It is seen when a belligerent offends us as a neutral, as by dealing with its enemy in such a way as to be contemptuous of our rights as a neutral, and so violates its obligations as a belligerent toward us. The World War afforded tragic instances. Both sides were contemptuous of our rights, and both sides took the position that when its enemy violated international law, with respect to itself, it could respond in such a way as it saw fit, even if it curtailed our rights. That is a very sad thing, because it is going to be repeated. It is bound to happen again, and we are simply in a fool's paradise, in my mind, if we assume that what we formerly as a neutral, regarded as belligerent lawlessness is over. Therefore, I feel that our best hope of maintaining respect for what we conceive to be our fundamental legal rights as a neutral lies in the strength of our own fleet.

Now, you are going to say, that in proportion as an offended neutral attempts to vindicate its rights by force as against a belligerent which is doing it injustice, that belligerent will contend that the neutral is taking part in the war, and is helping its enemy. That contention will surely be made; and so it comes about that a neutral country like our own, if we are neutral, may be very cautious about exercising military or naval power to safeguard itself. But it may not need to go so far; and it may be true that the neutral possession of power, and the fear of offending neutrals able to oppose force to force, will be a great protection, and produce increased respect for neutral rights. The best proof of that is contained in the very frank words of Sir Edward Grey in his memoirs, published in 1925 or 1926, when he made it clear that if we, during the period when we were neutral in the World War, had stood more vigorously for our rights, England would certainly have yielded, because our friendship, was too precious to lose. That frankness of Sir Edward Grey is refreshing. It suggests, moreover, what may be accomplished when we as an offended neutral stand steadfastly on our rights; and it suggests also how we may vindicate them. Obviously, the smaller countries, when neutral, such as Finland, the Netherlands, Switzerland, and the Scandinavian states can do little. They dare not oppose force to force as against a powerful belligerent. Thus it is that the maintenance of neutral rights which we believe in and have stood for, and which owe their strength in large part to our influence, depends at the present time more upon the power, and perhaps also the disposition, of the United States to make dangerous the way of the transgressor than upon any other circumstance.

Now, to go on to my next point: The duties of a neutral toward a belligerent are so well known to you all, and to Congress, and to the President, and the State Department, that I cannot imagine affirma-

tive action being taken by your committee or by Congress that could technically be regarded as a violation of a legal obligation on the part of the United States. I have perfect confidence in that, and I have not any fear on that score about any fresh legislation. But there is a more serious difficulty.

The serious difficulty is the temptation that you will be brought into and which you cannot avoid, if war comes and you legislate after its outbreak, or perhaps even at this time, to go as near the line as possible, and to permit what the law does not forbid, and by that process aid a favored cause.

Now, just a word on that. It brings up the whole cash-and-carry policy. That policy has been criticized on various grounds, in the past, and you have probably heard them all, but perhaps one point ought to be emphasized. The cash-and-carry policy is a gambling policy, gambling on the fact that the United States favors the group of states who are in, or are expected to be in, control of the Atlantic Ocean.

Can you visualize a cash and carry policy now favored at this stage, if certain countries—I will not name them—rather than those that I also will not name, were in the saddle, and had control of the Atlantic channels?

Suppose for example that a war broke out between Great Britain and Ireland, and Ireland seeking its independence, was fairly successful, and we recognized its rights as a belligerent. How would the cash-and-carry policy operate?

Suppose Germany goes to war with Finland, or Italy goes to war with Greece, where will the weaker state find itself?

Take a more terrible situation, suppose for example certain states that we call democracies, and for that reason have great sympathy with, should be caught napping at sea, and their enemies gain control of the oceans. How would the cash and carry policy work?

But suppose the democracies of Europe do not lose the preponderant power at sea. On that assumption, consider the situation that might present itself. What would be the attitude of belligerent powers which were the enemies of those democracies toward the United States as a neutral? How would they regard us, while we professed to be neutral, when they found their relative strength and their hope of final success held in leash or perhaps jeopardized if not ruined by an American policy designed in part to enable their enemies in control of the sea to win the war? What would be their attitude? We could say, of course, that technically our conduct was not unneutral, and that it violated no legal obligation towards the belligerents that made complaint of it. But that answer would be brushed aside as irrelevant. The question would not be whether our conduct violated international law, but whether it was greatly injurious to belligerents that suffered by it. If they felt that it was, they might find strong inducement to make the United States their enemy and bring it into the war. They might prefer to deal with it as a belligerent than as a neutral.

I have always been gratified, myself, that our attitude as a real and decisive helper in the World War was as a belligerent, and not as a neutral, and that we entered into that conflict as the avowed enemy of the countries that we opposed. We can always take such a stand when our vital interests are at stake. In case, for example,



Germany, as a belligerent, should with the aid of an ally gain control of the English Channel and the Mediterranean, I can well imagine that the United States, feeling that its own defense was endangered, might align itself with the enemies of Germany and enter the conflict as such an enemy. But we need not discuss that contingency here at this time, for we are considering the conduct of the United States as a neutral and while it professes to be at peace with any nations that may go to war. Hence we are considering merely the consequences or effect of its conduct while a neutral in legislation that might be favorable to a group of belligerents upon the retention by the United States of a nonbelligerent or peaceful status. It will not do to say that such conduct is not unlawful and that our action is correct. The main point to be considered is that by a not unlawful taking of sides through carefully devised legislation we may be giving the strongest possible inducement to an unfavored belligerent to drag us into the conflict.

Now, I am greatly impressed by what this country, or rather by what Congress, did in 1937. It saw the point that I have raised. In 1936, about the 12th of December or earlier, just as the Inter-American Conference for Peace was meeting at Buenos Aires, our eminent Secretary of State, Mr. Hull, whom we all revere, made a most interesting proposal, to the effect that the several American republics, when neutral, should not contribute munitions of war or aid of such a kind to any belligerents in a war between the American republics. It was a noble plan; it was a definite proposal by our Secretary of State that such neutral conduct should be obligatory. The proposal was not accepted. By the way, you will find Secretary Hull's exact proposal in a Press Release of the Department of State for December 12, 1936, at page 483; it is worth reading. Now, you will also find that the convention which finally dealt with the matter and to which we are a party—I think Treaty Series No. 926—which was concluded at Buenos Aires, did provide that in the interest of the solidarity of neutral states, such action might be considered and possibly taken. It was not to be obligatory, and the provision was not as strong as Secretary Hull's plan, but at the same time it reflected his idea. Then came your own Neutrality Act of 1937.

That act has not had fair treatment in this country, because of the restraint that it seems to have put on people. I think that that was beginning a great piece of legislation. Of course it has its defects, and I am not burdening you with detailed criticism of them. I think section 2 unfortunate in its cash-and-carry provision; and perhaps also there are some other provisions that may be open to objection. But I need not bother you with them. Nevertheless, at the same time, the act was based upon a solid foundation that had a sound philosophy behind it. It was the first time in our history that our country has said if war breaks out we are not going to feed the flames of conflict by an American contribution of war materials. The reason for that attitude was that it was felt that such contribution would endanger our own peace and safety. Now, were you wrong in taking that position? Was the Secretary of State wrong when he made his proposal at Buenos Aires? This is worth thinking about. It is easy to say that the scheme did not work, Mr. Chairman and gentlemen. But think the matter over. Was your philosophy false? I do not think that it was.

Mr. JOHNSON. The present neutrality law has had so many brickbats thrown at it that it is refreshing to have one bouquet thrown by an eminent authority like yourself.

Professor HYDE. I am not taking a very popular ground, I realize. I am not trying to be popular. I can see the heavy criticism that will be launched at my remarks, but I still feel from my soul that that was a right step, and I think that it would be a sad thing if it were retracted without great care. I only ask you gentlemen to think it over most carefully, whether the philosophy behind your action was false.

Now, just one word more, and—

Mr. JOHNSON (interposing). Before you leave that, I want to be sure that I understand your position. Your idea is that the present neutrality law is all right, except the provision with reference to the cash and carry, which expires on May 1, then?

Professor HYDE. Very nearly, sir. There may be some minor points.

Mr. JOHNSON. If no action is taken, and the cash-and-carry section which expires on May 1 is permitted to depart in peace, then you think it will probably be the best thing that this Congress could do?

Professor HYDE. I am not prepared to go quite so far as that without further consideration.

Mr. JOHNSON. How far will you go?

Professor HYDE. I have felt this, that perhaps you might think it wise to give the President authority to enlarge the embargo permitted in section 1 so as to enable him to restrict the exportation of additional articles should he conclude that such action was necessary to preserve the peace of the United States or the commerce of its citizens.

Mr. JOHNSON. Do I understand that you would give the President a little more discretion in applying it; is that what you mean by the last remark?

Professor HYDE. I should not hesitate to give the President greater discretion in that regard, without referring at all to any cash-and-carry policy, by allowing the President, if he saw fit, to enlarge the embargo beyond the scope of section 1, so as to apply it to additional articles of which the exportation from the United States was regarded by him as endangering the peace and safety of the United States. I should trust any President that we might have to use that authority in the right way; and I think that he would and could resist insidious pressure from any source to abuse his authority.

Just a word in conclusion. I would like to ask you to consider whether you do not think that the success of the United States in the long run in keeping out of war may be largely dependent on the resoluteness and determination that it shows in the effort to abstain from giving any aid to a belligerent for use against a country with which we are at peace.

I would like to have you think that proposition over.

Thank you very much.

Mr. BLOOM. Are there any questions?

Mr. EATON. The last statement that the gentleman made would involve our abstention from giving aid, for instance, to Japan, would it not?

Professor HYDE. Provided Japan is a belligerent.

Mr. EATON. Well, would you call Japan at the present time a belligerent?

Professor HYDE. I am not prepared to say so. That is a difficult question. I am not prepared to say that the administration is wrong in not considering it one, but you can broaden the items of an embargo. You can eliminate the question of belligerency and, if you see fit, restrict exportations sought to be used by a foreign state engaged in armed conflict against another. I realize that. A neutrality law as such, however, presupposes that the foreign states engaged in conflict, and with respect to which restrictions of exports of particular items are sought to be applied, are at war with each other as opposing belligerents. I have not felt that the attitude of the administration with respect to the conflict in the Far East was unreasonable or at variance with the thought behind the existing law.

Mr. BLOOM. Professor, the committee feels very grateful to you for appearing today and giving us the benefit of your knowledge on this subject that you know so much about. Thank you very much.

**STATEMENT OF KILSOO K. HAAN, WASHINGTON REPRESENTATIVE OF THE SINO-KOREAN PEOPLE'S LEAGUE WASHINGTON, D. C.**

Mr. BLOOM. Gentlemen, this is Mr. Kilsoo K. Haan, Washington representative of the Sino-Korean People's League, of Washington. You are an American citizen?

Mr. HAAN. No, sir.

Mr. BLOOM. Where are you from?

Mr. HAAN. I am from the Hawaiian Islands, and I have lived there for 33 years.

Mr. BLOOM. What is the league? For the benefit of the committee, would you kindly explain what this league consists of?

Mr. HAAN. Mr. Chairman, this league is primarily to aid America in trying to get as much information pertaining to such activities which we term un-American activities in Hawaii, and America. We believe America is our only hope in maintaining our own security and peace in Hawaii, and in the Far East. Under the present circumstances, the Koreans, and the large number of Chinese, are put in such position that they would not go back to Korea or China, under the present circumstances. They would rather stay in Hawaii. If Hawaii remains under the Stars and Stripes we know we would be safe.

On the contrary, if Hawaii is threatened with danger, or the Pacific area is involved in any war, we too would be in such position as you would be. We would like to do our share, and remain loyal to America, and impart such information or constructive ideas, not only to have America remain a neutral country, but a strong country, always protecting its own rights in the Pacific.

Mr. Chairman, and honorable Members of the House of Representatives: I thank you for this opportunity to appear before this important Committee on Foreign Affairs. I am sincerely grateful for the privilege.

May I add a little information, on the question of oil export to Japan which the predecessor to the doctor, Mr. Emerson, had taken up. Our men report that in Japan there is a law, enacted in 1934, that all oils bought from America, must be shipped to Japan in Japa-

nese bottoms. Whenever there is a transshipment to Japan, it is a negligible quantity.

The Japanese claim that they do buy 75 percent of the national necessity of petroleum from America. There is also a law put into effect in 1936 that American concerns who deal with Japan must reserve 50 percent of its yearly sale in Japan proper.

In other words, if the Standard Oil and other companies in the State of California, selling 30,000,000 barrels of crude and refined petroleum to Japan, as they did last year, must reserve in Japan, proper, 15,000,000 barrels. This is the law put into effect in 1936, taking advantage at the expense of America. Undoubtedly Japan would have this oil reserve continually set aside for their national defense purposes.

I am sure we hazard nothing in saying that not only the most important event of the past 200 years, but one of the most important events of all time, was the advent of the United States into the family of nations. Its profound significance was not then unfelt. Even now, we seem to stand only on the threshold of American history, as if its domain were the future rather than the past.

Many nations have come and gone and have left little impress upon the life of human happiness. The Declaration of American Independence, however, bore upon its face the mark of distinction, and presaged the development of a theory and a policy which must be worked out in opposition to the ideas that then dominated the civilized world.

Of this theory and policy the keynote was freedom; freedom of the individual, in order that he might work out his destiny in his own way; freedom in government; in order that the human faculties might have free course; freedom in commerce, in order that the resources of the earth might be developed and rendered fruitful in the increase of human wealth, contentment, and happiness.

The liberal Japanese, Chinese, and the Koreans believe that the present undeclared war between China and Japan is more than a war for territories or raw materials. The present war is, in effect, a war between two political philosophies - Japanese fascism versus democracy. Hence, regardless of nationality, the Japanese liberals, Chinese, and the Koreans are banded together, doing whatever they can to disrupt Japanese military success, hoping some day they too, will enjoy such freedom.

Regardless of the merit or demerit of the neutrality law, insofar as it affects the Far East, the Japanese militarists and expansionists have been greatly aided by this law, while, on the contrary, the liberal Japanese, Chinese, and the Koreans, have suffered reverses.

Under this situation, the Sino-Korean Peoples League feels we should be primarily interested in the safety and in the security of America. We fear that unless America takes firm steps in their Pacific policy, Hawaii or other Pacific possessions will be seriously endangered. We also fear that the people of Asia, who love democracy, will never be able to enjoy the freedom as you do unless America remains a strong democratic power. The misfortune of America means our own failure. To us America is the beacon light in a dark, stormy sea. We would lose all sense of direction; we would be lost and be hopelessly demoralized, unless the beacon light of American democracy keeps shining into the dark. In these times of international turmoil,

pregnant with grave possibilities, we desire to do all we can to contribute our mite and our loyalty to democracy.

I can vividly picture the Japanese Consul, General Fukuma, calmly and seriously, with his smiling eyes, talking to me:

American Congress very smart, you know, very smart; agree not to agree with President.

Few more years Japan clean up all American business in China. \* \* \* You see Congress wants peace, peace, all the time peace. Japan want peace, too. You know. Yes, Japan want peace.

And he then spelled the word peace, "p-i-e-c-e." This was about 3 weeks after the passage of the neutrality law in 1937, at his office.

Mr. JOHNSON. Who is this that you are quoting now?

Mr. HAAN. The Consul General, Fukuma, the Japanese Consul General in Honolulu.

By the way, I have been indirectly connected with the Japanese Consul General for a number of years for the purpose of trying to find out their background to the activities against America.

I recall another talk with Secretary Iizuka, formerly connected with the Japanese Foreign Office, Information Bureau. He said:

Within 1940 we shall control all of North China, Mongolia, and Manchuria. In another 4 or 5 years we shall be ready to ask America to let our people go and live among Americans.

Our population must expand into America and South America. We find the Japanese can live more happily on the American continents than anywhere else.

China is already overcrowded. America is the only place left for the Japanese to go. If America do not allow, we can at least have Alaska, Hawaii, and Samoa.

To illustrate his point, he took a red pencil from his desk and drew a heavy line from Japan to Alaska, then to Hawaii, and continued on to Samoa. From Samoa to Formosa, below the Mandated Islands and above the Philippines.

When we have these places then America will let the Japanese live on the American continents,

he said.

We fear that the effects of the United States policy in the Pacific are interpreted by the Japanese militarists as an evidence of America's moral weakness and the people's desire for peace at any price, even at the risk of losing the strategic island possessions.

If the American foreign policy, particularly the neutrality law, tends to cause other powers to interpret America's foreign policy as such, then I believe this is surely an unhealthy situation. In truth, it defeats its good intent and purpose.

I cannot help but believe the neutrality law, in reality, is inviting an attack from the only power strong enough to do so in the Pacific. By this I do not mean to minimize the dangers over Europe, but I certainly do believe that there are greater dangers in the Pacific and such danger is a direct and immediate one against America's national defense. Say what you may, the Oriental power across the Pacific will soon demand a fenced accounting. There are almost three quarters of a million sons and daughters of Nippon in the Western Hemisphere, the large majority of whom will do their share for Dai Nippon.

Let us look back and be serious enough to understand the meaning of the word "neutrality." I am not an expert on international law,

but I do feel and know what it means to be neutral. Webster's Universal Dictionary gives this definition:

**Neutrality**—The state or condition of being neutral or being unengaged in disputes or contests between others; the state of taking no part on either side; In international law that condition of a nation or state in which it does not directly or indirectly take part in a war between other states.

I think no one will dispute or disagree with the known facts in which the public believes, that the neutrality law has greatly aided the totalitarian powers in their aggression against the weak and helpless countries.

I believe the neutrality law was amended three times, largely due to the desires of the public to keep America out of foreign wars. Also having a desire to aid Spain and China.

During the rush and shuffle in Congress, some unknown fate chloroformed "Miss Neutrality Law" and successfully operated on her vital organ, taking out her heart and substituting with Charlie McCarthy's heart. Since then Miss Neutrality Law became so technical and so foreign-trade minded, much to the disappointment of millions.

Not long ago I was shocked and almost stunned when I read in the newspaper that the House of Representatives refused to pass the Guam fortification bill. Those who are familiar with Korea's modern history cannot help but sadly think of the future eventualities that may come. Knowing Japan's "jijitsu" diplomacy as we do, we can only pray that history may not repeat on Guam.

Internationally speaking, Korea has become both the exponent and the finished example of Japanized fascistic ambition. Willard Price, in Harpers' some months ago, wrote:

Those who wish to get a glimpse of the trend of future events in Asia should not neglect to study that vivid object lesson, Korea.

It is interesting to note the parallel of the strategic importance of Guam and Korea. The parallel lies in the annexation of Korea in 1910 by Japan, and in the events which have grown out of that annexation.

The Korean Government made similar mistakes with good intention, and for the sake of peace, Korea too avoided in every way, hurting the Japanese feelings. They, too, refused to fortify. In its place they adopted the well-known "ostrich" and "appeasement" foreign policy toward Japan. Those of you who are older and better versed than myself, how well you remember the Japanese declarations to the American public and to the American Government. Japan declared Korea was a pistol pointed at the heart of Japan-- it was a threat to Japan's national defense, and so forth.

America accepted their declaration and indirectly consented to Japan's annexation of Korea.

The subsequent events following Japan's annexation of Korea have proven that Korea, now in the grip of Japan, has become a pistol pointed at the heart of China and Siberia. If Korea felt otherwise, or if America knew Japan's ulterior motives back in 1904 and 1910, Korea would have remained in the hands of Koreans. Korea could have contributed much toward the balance of power in the Far East between Russia, China, and Japan. Will Guam meet the same fate?

Fortifying Guam and the adoption of Senator Thomas' neutrality amendment will, in effect, be a wise diplomatic strategy, and it will also be an act of moral offense for self-defense.

Gentlemen, have you at any time seen or participated in checking the spread of a wild fire in the sugarcane fields? I have had some experience. I saw that, in time of such emergency, the leaders waste no time in making a firebreak and immediately start a backfire. I have seen it time and again, and it worked every time.

No doubt you gentlemen may have seen in the moving pictures the great Chicago fire and the famous O'Leary's cow barn, and so forth. Backfire was the only and most effective method of checking the spread of fire.

We believe time is an important factor, gentlemen, if you desire to check the dictators; may I honestly say, start a moral and economic fieldfire against them?

Believing as we do, I am strongly in favor of the Senate Joint Resolution 67, introduced by Senator Thomas of Utah.

America needs a neutrality law that has a heart as well as a strong arm. In a good sense, we want a normal, humanitarian neutrality law. A law, in its application, that will stand for justice, righteousness, and humanity. A law that will truly represent the desires and the hopes of the majority of the people. Above all, a neutrality law that will keep America out of war. Senator Thomas' proposed amendment has all the characteristics of the American pioneer. Very seldom a strong man, a man of word and action, is attacked.

Senator Thomas' proposed amendment provides that the President shall have the power to pick the aggressor nation in any international conflict, and embargo shipments of arms, munitions to it, while allowing them to be sold freely to the victims of aggressor nations. It also provides that the Congress would have to ratify any embargo order the President may issue.

May I call your attention to the fact that I do not see any mandatory clause in the proposed amendment that the President must name the aggressor in time of international conflict, nor can I see any clause where the victims of the aggressor nation must transport their purchases of arms and munitions in American boats?

I say this because I feel that many fear that the President may do something other than the wish of the American people.

I have heard a number of Americans, in my travels across the country, questioning the wisdom of conferring the power to the President to name the aggressor nation or nations. With all due respect to these American gentlemen, may I be permitted to state my honest conviction. I for one would rather implicitly trust the sound judgment of the President and also trust his integrity, honesty, and his high quality of patriotism. I believe he will keep America out of war, if it is humanly possible. What I say of the President, can also be said of the Senators and the Representatives.

Gentlemen, I am sure you will agree with me when I say, there is not one Senator or Representative who will deliberately and intentionally jeopardize America's interests or defeat justice and righteousness and drag America into an unjust war.

In conclusion, permit me to point out the significant factors as to the discussed neutrality law's effect on the Far East.

First: The demoralizing effect it will have upon the millions of Japanese people who are misguided and misinformed; while the contrary, strengthening the morale of the 450,000,000 Chinese, 22,000,000 Koreans, and many more millions of liberal Japanese in Japan. Once

the morale of these millions of Orientals, who are opposing the Japanized fascism in Asia is aroused, the war will be localized and it will surely prevent its spread into the Western Hemisphere.

Second: The good will of these millions will pave the way for America's greatest prosperity in the annals of American history. The profits now realized by America through the sale of petroleum, arms, munitions, scrap iron, and war materials are chicken feed compared to what America will reap in the future.

Third: Revitalize American commerce in the Pacific. China was an important factor in the history of American commerce, and in the territorial acquisitions in the West and in the Pacific Ocean.

May I quote Mr. Willard Price:

For more than a century America has been Orient-bound. She has never arrived. And yet her failure has been a stirring success. The Nation would never have developed as it has without the pull of the East. An American takes his California and Oregon for granted. It never occurs to him to thank China for them. And yet if it had not been for the lure of China, the West Coast would today more probably belong to Russia, Britain, or Mexico than to the United States. It was "the old China trade" that made America coast-conscious. The western coast was a precious vantage point for Oriental trade.

The first American settlement on the Pacific Coast—that of the fur merchant, John Jacob Astor, in 1811—was, in the words of its founder, established "for conducting a trade across the continent—and from thence to Canton, in China."

American hearts were captivated by the eloquence of Senator Beveridge: "Our largest trade henceforth must be with Asia. The Pacific is our ocean—and the Pacific is the ocean of the commerce of the future. Most future wars will be conflicts for commerce. The power that rules the Pacific, therefore, is the power that rules the world."

Last but not least, gentlemen, may I call your attention to the statement made by the Honorable John Russell Young, the American Minister to China, after the signing of the American-Korean Treaty, May 22, 1882:

I think it very important that the United States should have a footing in Korea, and that having opened the door, we should not close it, or give any other power precedence.

A while ago I tried in my clumsy way to point out the strategic parallel of Guam with Korea. May I humbly and sincerely plead that the members of the committee give serious thought to this statement in its application to the status quo of Guam?

When Congress adopts Senator Thomas' proposed amendment of the neutrality law and immediately fortifies Guam, the fear of war in the Pacific will be a passing fancy and the threat to Hawaii, Alaska, and the Panama Canal will be eliminated for a long period.

Honorable gentlemen, allow me to repeat—a moral and economic offense is America's best self-defense.

I thank you.

Mr. BLOOM. Are there any questions?

Mr. VORYS. Mr. Haan, you suggest the Thomas amendment, with the idea, I presume, that under that immediately Congress and the President would declare an embargo against Japan, and lift it against China?

Mr. HAAN. It is not in effect the application of it immediately, it is the moral effect which it will have over the millions of orientals in the Orient. That is a greater effect. That is the reason why I did say here that the clause did not indicate as any mandatory issue that the President should or must name the aggressor, or the victims of the



aggressors must be allowed to transport their purchases through the American boats.

Mr. VORYS. Are you familiar with the Coffee bill, which is pending here, which simply declares the embargo against Japan?

Mr. HAAN. I am not very familiar, but I have the gist of it, sir.

Mr. VORYS. What would you think of such a bill?

Mr. HAAN. I believe that it does not have enough of that strong-arm business.

Mr. VORYS. It is far stronger than anything else, is it not?

Mr. HAAN. It is not properly balanced. We are thinking of not only Japan, but also the European situation, and if we have enough faith in the Administration, and based on the interpretation of the Japanese officials which I have had the pleasure of dealing with for a number of years, they got the idea that the American Congress is always going against the President, and against each other between the Republican Party and Democratic Party. When it comes to foreign policy questions, they are always wrangling, and therefore Japan has all of the advantages to do whatever they can. They believe the Congress will not have the time to agree soon enough when emergency comes.

Mr. VORYS. Of course, if an embargo bill were passed, it would have to be passed by the Congress and approved by the President.

Mr. HAAN. Yes, sir.

Mr. VORYS. That would show a unanimity of action, would it not?

Mr. HAAN. It has this point of view, it has the moral effect insofar as the Japanese and Chinese and Koreans are concerned. To me a neutrality act is an outcome of the change of normal international situations, so that in any time of abnormal situation, or emergency period, we want a man just like a general in the Army, that would have power enough to command at any particular emergency period, to do certain things, as the whole Army would follow his command immediately. The psychological effect it will have upon the Chinese and Japanese and Koreans, would be such that it would be a tremendous aid in helping to maintain the peace in the Pacific.

You can just imagine, we have millions of Chinese and Koreans and millions of Japanese, immediately when they know that America means business, they will hesitate blindly to follow the leadership of the Japanese militaristic propaganda. Their morale would be so strengthened, and they would be ready to do everything possible, either peacefully or constructively, to avoid following the orders of the Japanese militarists.

Mr. VORYS. One other question. Suppose an embargo were declared against both sides in the Chinese-Japanese war, what would be the practical effect?

Mr. HAAN. That would be far better than as it is now. As it is now, what China gets is really little crumbs under the table, whereas Japan is getting the meat, I would rather do away with the crumbs and take a chance with what I can get and still have a chance to fight. At least the Japanese would not have the strength to fight me as he would do in the past, after having a good square meal of beefsteak.

Mr. RICHARDS. I want to compliment you on that paper. I think it is a good paper. How long did you say you lived over here?

Mr. HAAN. I lived in Hawaii 33 years.

Mr. RICHARDS. How about the United States?

Mr. HAAN. I lived in America not quite a year.

Mr. RICHARDS. You live in Hawaii now?

Mr. HAAN. I do live in Hawaii.

Mr. RICHARDS. You are testifying about the proposed neutrality legislation from the standpoint of what is best for Japan, or China, or Korea, or for the United States?

Mr. HAAN. For the United States.

Mr. RICHARDS. That is the reason you came here. In the interests of the United States?

Mr. HAAN. Yes; our organization has been operating for 7 years, with one object, and that is to get all of the information possible to pass it on to the American Government, because we feel that the situation in the Far East is so uncontrollable that the whole power or the fate seems to be in favor of Japan, up to now at least. If America falls down, or is threatened with danger, our only hope will be vanished.

Mr. RICHARDS. You are a citizen of what country?

Mr. HAAN. I am practically a man without a country. I came to the Hawaiian Islands when I was 5 years of age.

Mr. JOHNSON. You were born in Korea.

Mr. HAAN. Yes. Under the circumstances I do not know much about Korea, only except such information as sent to me through the organization. I happen to be the head of this organization for this particular purpose, conveying the information that is sent to me, to such United States officials as I see deem necessary.

Mr. BLOOM. Any further questions?

Mr. IZAC. Mr. Chairman, I would like to ask the witness this question.

Suppose we passed the Thomas amendment, and the Geyer resolution, and we have on the statute books that provision, that the President may declare this embargo. Suppose, however, that he did not exercise that right. Would we not be in exactly the same position we are now? Japan must know that we have the power in this country to do so, that Congress if it should suddenly decide that the President is a pretty fine fellow after all, and would want to go along with him, that we will give him this authority; that perhaps partisan politics is the reason we are scrapping here in Congress a little about it? Do you not think that the result would be that we would still sit here and not do anything even with that on the statute books, that the President would not exercise that power?

Mr. HAAN. I quite disagree with you. On the contrary, I believe it would be a tremendous moral aid.

Mr. IZAC. Just placing it on the statute books?

Mr. HAAN. Even placing it on the statute books, because of this psychological effect it will have. They know, at any time, that if the American public is so aroused, that they can immediately set this machinery that will work itself against them, they would be guarded, and they will say, "Let us be careful, we are not going to fool around with America, we are going to be careful."

Mr. JOHNSON. It serves as a warning, that it might be exercised.

Mr. HAAN. Yes, and the immediate effect is, what you will do to the people is to make them help themselves.

In other words, if I would go out in the street, and see a hobo, instead of giving him 10 cents, or 25 cents, it would be a great moral aid to him to take him somewhere and get him a job, he would then help himself. -

It is the self-reliance, you instill in them. They will learn how to take care of themselves instead of relying on you always. Japan will have much trouble on their own hands, and we will not have to worry about their coming across the Pacific for a long time. Above all the war will be localized, and the spread of these various Japanized ideas would be checked, immediately.

Mr. BLOOM. Any further questions? (No response.)

We thank you very, very much, Mr. Haan, for appearing before the committee. The committee will now go into executive session.

(Whereupon, at 12:15 o'clock, p. m., a recess was taken until the following morning, Thursday, April 27, 1939, at 10 o'clock, a. m.)



## AMERICAN NEUTRALITY POLICY

THURSDAY, APRIL 27, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10 a. m., Hon. Sol Bloom (acting chairman) presiding.

Mr. BLOOM. The committee will come to order for the further consideration of bills to amend the Neutrality Act.

Mr. JOHNSON. I have a letter addressed to me from J. Lloyd Mechem, professor of government, and Charles A. Timm, professor of government, both of the department of government of the University of Texas, Austin, requesting that I read to the committee a statement upon the subject of neutrality, which is signed by them, and Ira P. Hildebrand, dean of the school of law of the University of Texas, A. W. Walker, professor of law, and about 20 other members of the faculty of the University of Texas, as an expression of their views upon this subject, and from the letter I quote this paragraph:

The prevailing hearty support given this statement by the members of the the faculty of the University of Texas who were invited to endorse it—for it was not circularized—lead the undersigned to believe that it represents the near-unanimous opinion of the faculty as a whole.

I will say the University of Texas has grown to an institution of considerable size. The student body is over 10,000, and it is one of the richest endowed schools, because the State of Texas reserved the mineral rights in all of the public lands, and as a result, oil was discovered upon many of the lands, and it is now quite a large and growing institution.

Mr. Chairman, with the consent of the committee, I shall read this statement.

It is headed: "A Peace Policy for the United States in the Present Crisis."

(Reading:) The undersigned, professors of international relations in the University of Texas, being convinced that probability of American involvement in a general European war is very great, despite all legislative efforts to insulate ourselves from it; and being convinced, consequently, that the most constructive policy to be followed by the United States is that of exercising its influence to restrain a resort to arms, earnestly recommend your support of legislation such as the Thomas amendment (S. J. Res. 67), which will enable the President, subject to congressional approval, to embargo all commerce with violators of treaties to which the United States is a party, meanwhile affording the victims of aggression easy access to the economic resources of the United States. In support of this policy, we solicit your consideration of the following statement:

The contemporary world situation instills in the American people a common, near-unanimous, desire to avoid involvement in war. At the same time, it is the conviction of a great majority of our people, as indicated by public opinion polls, that in the event of a general European war the United States will become involved.

Why is the inevitability of American involvement, notwithstanding any kind of "neutrality" legislation which the ingenuity of Congressional isolationists can devise regarded as almost as certain as the inevitability of European war itself? It is because today, with war impending, the American people have formed a moral and spiritual alliance with the European antifascist front. Even before the outbreak of armed hostilities we have selected our favorites and are determined to do nothing which will injure their cause.

Since we are unneutral before the war, is there any reason to believe that we shall be less unneutral after the fighting starts? Quite to the contrary. When German bombers "strafe" London and Paris and employ diabolical instruments of destruction to terrorize civilian populations into submission; when the Nazi high command flouts the laws of warfare with the same reckless abandon that it now flouts all law and moral restraint; when they initiate a policy of frightfulness to paralyze the opposition into immediate surrender, what value American "neutrality" legislation, even though it were written into the Constitution itself? Then it will become all too apparent that it is not possible to construct an artificial legislative barrier capable of withstanding the mighty flood of an outraged public sentiment. Neutrality legislation can neither curb nor control the unneutral thoughts of American people, and in final essence it is popular thinking and feelings which prepare the way for war.

Since it is futile to attempt to legislate our immunity from war, the only alternative is a policy calculated to prevent the outbreak of war. This cannot be accomplished by announcing a neutral or impartial attitude, which, indeed, might well be an encouragement to aggression. The only hope for the maintenance of peace rests in the firm and unqualified declaration by the United States that the full weight of its economic resources will be thrown into the balance on the side of the victims of aggression. This forewarning might serve to stay the arms of aggressor nations; it is the only contribution which the United States can make, at this late date, to prevent war.

It is quite beside the point, therefore, to argue that economic sanctions must be avoided, because of the danger of retaliation. The only purpose of the policy here suggested is to threaten the potential aggressor with dire consequences if he breaks the peace. If he ignores this warning, the result will be no worse than if the United States had made no effort to prevent the outbreak of war. The Thomas amendment (S. J. Res. 67) which would empower the President, subject to congressional approval, to name the aggressor and embargo all commerce with him, meanwhile affording all economic assistance to the victims of aggression, is the only proposal before the Congress which gives any assurance of preventing American involvement in war, for the simple reason that this is the only policy advocated which can possibly serve as a deterrent to the outbreak of war. In supporting this policy--a warning to the aggressors--the United States would be following the one last remaining road which leads to peace. It should be supported by all peace-loving Americans, for it contains a hope of peace. So-called "neutrality" which ignores any responsibility for the prevention of war in the first place can lead but to one inevitable and tragic result--American involvement in war.

Mr. BLOOM. Mr. Johnson, I wish that you would kindly thank the University of Texas, and Professors Meehan and Timm, of the department of government, for their valuable contribution to the information they have given to the committee on neutrality legislation.

At this time I want the new members to know a gentleman that we are honored in having with us, a former chairman of this committee. A gentleman that we have always admired and respected as he was very considerate of everyone on the committee. Dr. Henry W. Temple, former Member of Congress and chairman of this committee.

Dr. TEMPLE. I appreciate the honor done me by inviting me to sit at the table. I did not come to annoy the committee with any opinions of mine, and I just came to renew old associations, renewing acquaintance with old activities.

Mr. BLOOM. Dr. Chase, will you kindly take the witness chair this morning?

**STATEMENT OF REV. WILLIAM SHEAFE CHASE, D. D., PRESIDENT  
OF THE RELIGIOUS UNION FOR WORLD PEACE, BROOKLYN,  
N. Y.**

MR. BLOOM. Dr. Chase, will you kindly give your name and whom you represent, and your address to the reporter?

DR. CHASE. William Sheafe Chase, president of the Religious Union for World Peace. My office is in Brooklyn, N. Y., my home in Kings Park, N. Y.

MR. BLOOM. You represent your organization?

DR. CHASE. I represent my organization, yes, sir. Its only cause for organizing was to effectuate the Kellogg Peace Pact.

MR. BLOOM. Proceed, Doctor, with your statement.

DR. CHASE. Mr. Chairman, and members of the House Foreign Affairs Committee:

The darkest hour is just before dawn. The confusion of thought in the world today is like that at the darkest hour in the framing of the Constitution in 1787 in the Confederation and in the Convention itself. Out of that confusion and despair came what Gladstone pronounced "the most wonderful work ever struck off at a given time by the brain and purpose of man." God has crowned that sacred instrument with fruits that mark it as His own.

The world is looking to the United States for leadership to keep war out of the world. For she promised it, when she made the Kellogg Peace Pact the supreme law of our land for our President faithfully to execute and invited all nations to sign that multilateral treaty.

This Foreign Affairs Committee represents the people of our whole land. The confusion of the people needs to be unified into one self-evident program of clear duty. Our President needs help. He is not infallible. He needs your advice at this moment. On one day he says, "We will meet force with force." The next day he invites the dictators to confer upon the granting of 10 years from the fear of aggression.

I would like to stop for a moment here. Judge Guyer ought to be here, and he was here yesterday on the idea that I was going to speak.

MR. BLOOM. I will send for him. That is Judge Guyer of Kansas?

DR. CHASE. Yes.

Judge Guyer, in the last Congress, introduced his bill which is now House of Representatives Joint Resolution No. 7,<sup>1</sup> because he thought the pact needed to be implemented. No supplemental treaty was necessary.

The pact went into effect in accordance with article 3 of that treaty, on July 24, 1929, when Japan, the last of the original 15 signers, had ratified the pact by her constitutionally authorized authority. For that reason his bill is not necessary, but he believes that this committee, representing the whole people, has a very important duty to perform in clearing the confusion in the public mind and in advising the President that his duty, at this crisis, is to call a conference of all nations, under the Kellogg Peace Pact, to act in accordance with their pledged treaty pledge.

Such action will demonstrate our trust in God, in international good will, and our desire that the Conference shall act justly for all nations and for all people in the world.

<sup>1</sup> See p. 619.

Judge Guyer suggests that President Roosevelt may find in his House of Representatives Joint Resolution No. 7<sup>1</sup> what he may choose to use in the agenda he may offer to the Conference.

On June 28, 1787, at the darkest hour of the Constitutional Convention, Benjamin Franklin, aged 81, said:

The small progress we have made after 4 or 5 weeks close and continual reasonings with each other—our different sentiments on almost every question, several of the last producing as many noes as ayes, is, methinks, a melancholy proof of the imperfection of the human understanding.

We seem to feel our own want of political wisdom, since we have been running about in search of it. We have gone back into ancient history for models of government and examined the different forms of those republics which, having been formed with the seeds of their own dissolution, now no longer exist. And we have viewed modern states all round Europe, but find none of their Constitutions suitable to our circumstances.

In this situation, this assembly, groping as it was in the dark to find political truth and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not once thought of applying to the Father of Light to illuminate our understandings?

In the beginning of the contest with Great Britain, when we were sensible of danger, we had daily prayer in this room for Divine protection. Our prayers, sir, were heard and were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a superintending Providence in our favor. To that kind Providence, we owe this happy opportunity of consulting in peace on the means of our future national felicity. And have we now forgotten that powerful Friend? Or do we imagine that we no longer need this assistance?

I have lived, sir, a long time, and the longer I live the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, nor rise without His aid, is it probable that an empire can rise without this aid?

We have been assured, sir, in the sacred writings, that, "Except the Lord built the house, they labor in vain that build it." I firmly believe it; I also believe that without this concurring aid we shall succeed in this political building no better than the builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded and we ourselves shall become a reproach and byword down to future ages. And what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom and leave it to chance, war, and conquest.

I, therefore, beg leave to move that henceforth prayer imploring this assistance of Heaven and its blessings on our deliberations be held in this assembly every morning, before we proceed to business and that one or more of the clergy of this city be requested to officiate in that service.

There were some delegates who raised objections to starting their business every day with prayer. Hamilton was one of them. The objections were satisfactorily answered. Mr. Williamson observed that the true cause of omission could not be mistaken. The convention had no funds.

Up to this hour, the differences between the opposing members had been very bitter. Dr. Franklin therefore, proposed that they adjourn for 4 days to have time to confer in a friendly manner with those to whom they had been opposed.

Mr. Randolph proposed in order to give favorable aspect to the measure that a sermon be preached at the request of the convention on July 4 and thenceforward prayers be had in the convention every morning. Dr. Franklin seconded the motion. The convention adjourned without any vote on the motion. (See Ferrand's Records of the Federal Constitution, Revised Edition.) At the close of the convention while the last members were signing the Constitution, Mr. Franklin, looking toward the President's chair at the back of which a rising sun happened to be painted, said:

<sup>1</sup> See p. 619.



I have often in the course of this session looked at that behind the President without being able to tell whether it was rising or setting: But now at length, I have the happiness to know that it is a rising and not a setting sun.

We need to rely upon the same loving God who guided our forefathers to found a new Nation upon this new continent. Eight times Lincoln bade the Nation to prayer. Three times it was at the request of Congress. Do some fear to resort to a day of public humiliation and prayer lest it should alarm our people, even more than they now are alarmed in their fear of war?

If we look to God publicly as we have not done during this decade, we would demonstrate that we are not hypocrites, and that the words on our coin, "In God we trust," is not a lie.

On March 3, 1863, Senator Harlan of Iowa, said:

I ask unanimous consent of the Senate to take up the resolution introduced by me yesterday.

It was adopted as follows:

*Resolved*, That devoutly recognizing the supreme authority and just government of Almighty God, in all the affairs of men and of nations; and sincerely believing that no people, however great in number and resources; or however strong in the justice of their cause, can prosper without His favor, and at the same time deploring the national offenses which have provoked His righteous judgment, yet encouraged in the day of trouble by the assurances of His work to seek Him for succor, according to His appointed way through Jesus Christ, the Senate of the United States do hereby request the President of the United States by his proclamation to designate and set apart a day for national prayer and humiliation, requesting all the people of the land to suspend their secular pursuits and unite in keeping the day in solemn communion with the Lord of Hosts, supplicating Him to enlighten the counsels and direct the policy of the rulers of the Nation, and to support all our soldiers, sailors, and marines and the whole people in the firm discharge of duty, until the existing rebellion shall be overthrown and the blessings of peace be restored to our bleeding country.

Senator Harlan was elected to the Senate from Iowa in 1855 and 1861.

Senator Roscoe Conklin said of Senator Harlan:

He is the strongest, most convincing debater I have ever listened to; one of the really great men who have served in the Senate.

Why 10 years of nonenforcement?

Why has no conference been called of the nations of the world under the Kellogg Pact during 10 years since its creation? The foreign nations blame it upon the corruption of American politics, and the attempt of great wealth to control the Government, but at a time like this it is difficult to believe that Members of Congress, who have taken the oath of office to support the Constitution, will obey their organization leader, betray the life, liberty, and welfare of the people and disobey God.

The Kellogg Pact wisely does not state the details as to how it will work in future centuries to establish and develop peace among all nations. Like the Constitution of the United States, it states merely the general principles and leaves it to the people and God to develop. No one can predict certainly how it will work, but Chief Justice Charles Evans Hughes on March 23, 1929, said, concerning the second article of the Pact:

It is not a profession, but a pledge, positive and comprehensive. That is the heart of the treaty.

As the treaty protects all nations from war, certain results follow.

The Pact guarantees freedom to each nation to develop its own national resources, free from external attack or from secret invasion. It relies upon the honor of each to keep the sacred treaty pledges and upon the power of public opinion. A conference of all nations under the Pact will mobilize the public opinion of the world. When honestly mobilized, the voice of the people is the voice of God. Can any citizens, who fear invasion by secret forces, of our Government, from Russia and Germany and Italy, fail to petition that the Kellogg Pact be enforced by our President?

The friendly intercourse of all nations is made secure by the Kellogg Pact, because each, when it signed its solemn pledge to settle all disputes between nations peacefully surrendered none of its God-given rights. For God said: "Thou shall do no murder." War is un-Christian.

Congressman Fish asked me if the Kellogg Pact had any teeth in it. The teeth in it is public opinion, and never was the world public opinion stronger than it is at this moment. Never was it so disorganized, largely because America has not stood behind it, and there has been a mass of misinformation, and distortion, connected with the pact. All that is needed is a mobilization of public opinion. We hold the key to the enforcement of the pact, because we can mobilize public opinion, and the mere calling of this conference is the thing that will do it.

There is a confusion of thought, but I have not thought that the confusion was due to the amount of money that was in the hands of the makers of munitions, and I would like to have this committee call to this stand here the people who are supposed to hold that money. My information is that the Rockefeller group holds \$5,000,000,000; that the du Ponts have \$2,000,000; that Ford has \$1,000,000,000, and that J. Pierpont Morgan does not come quite to the billion mark. Now, any one of those men, I believe, will honestly give you just what he thinks about it. Put it up to them as to whether they are willing to have America misrepresented as being controlled by wealth, instead of by honest law.

We must not fail to realize that we are defending our liberties, because that is the thing that is at stake, and we can certainly venture something if we have any real Christian courage in our hearts.

The friendly intercourse of all nations is made secure by the Kellogg Pact, because no nation when it ratified its solemn obligation to settle all disputes between nations peacefully, surrendered its sovereignty.

May I just say here, that the New York Times this morning represents Lord Lothian, the new American Ambassador from Great Britain, who is soon to come here, as favoring a federal union of all nations because he says that until each nation gives up its sovereignty, there can be no peace in the world.

Lord Lothian has for a long time advocated a union of all nations modeled after the United States, which was accomplished by each State surrendering part of its sovereignty, under our Federal Constitution.

Lord Lothian has perhaps not considered that the Kellogg Pact has, as its purpose, a world organization, in which each nation will not have to surrender any of its sovereignty because it has already renounced, as a national policy, all legal right to wage war. This plan avoids any danger of imperialism or of a world supergovernment.

## Suggested agenda:

House of Representatives Joint Resolution No. 7 proposed that the President shall call the Kellogg Peace Conference:

(1) To enact a code of international laws which shall recognize the sovereignty of each nation, with the exception only that it has renounced war and promised to settle all international disputes by peaceful means; and shall recognize the right of every nation to be protected by international law from interference in its internal affairs by other nations.

(2) To provide for a uniform standard of value and cooperative measures for the maintenance of reasonable stability of exchange rates, and a healthy international flow of capital.

(3) To rectify international wrongs brought about by the Treaty of Versailles or by the violation of the Paris Pact by the appointment of an International Equity Commission, consisting of nonimperialistic and nontotalitarian nations, to which dissatisfied nations can appeal for justice, with the right to have their petition reheard by the World Court of Appeals;

(4) To provide equal access to all colonies or non-self-governing areas to all nations for the purchase of raw materials and for the sale of their products;

(5) To provide a gradual disarmament to the minimum required for national police service and for economic demobilization, so that labor energy now going into armaments shall be diverted into housing, road building, agriculture, and other genuine peacetime activities.

Let me say here that the bill calling for a conference is the best bill that is before this committee, and I would only suggest adding to it that the conference which is proposed shall be this conference of the Paris Pact, because remember that not only the foreign minister in each nation signed this pact, but that each nation, by its constitutional authority ratified it, so that this conference when it meets will have power, and the mere calling of this conference will do, not what this recent attempt of our President to secure something from Mr. Hitler, there will be no guarantee that anything that was done at that conference would amount to anything, but the great point is that this conference, what they do will be all-powerful, and save not merely the United States of America but save civilization.

In closing, may I say that I have prepared a paper correcting misinformation concerning the pact, in printed form, but it is in such bad shape that I cannot give it to you this morning. I was going to have it. I was told that I was going to speak next week, and I would like to give that to you later. It will take up each misrepresentation of the pact. For instance, you heard Dean Healey say that the pact was a pact to legalize all wars, and then you heard an equally prominent Roman Catholic man, Professor Fenwick, say that that was not so.

Well, it has been generally said that there was a reservation the pact, that destroyed it. That is what Dean Healey was resting on, but Dr. Fenwick said that that was not so. The thing that convinced me in the first place was that Senator Borah, the Republican representative and chairman of the committee when it was adopted, said that there was no reservation. The report of Senate Committee on Foreign Relations to the Senate said there was no reservation. Senator Thomas Walsh, also said there was no reservation in the

pact. He was perhaps even more a wonderful man whom our President appointed as Attorney General, which gave me the greatest confidence as to what was coming from this Administration.

Here are the reasons why, in summary, I think that this committee should take this suggestion of giving advice to the President, who needs it, to call the Kellogg pact conference:

(1) To avoid being a treaty-breaking nation.

We are the authors of this treaty. Every certificate of ratification of it was sent by each nation to Washington. The world thinks of it as the Kellogg-Briand pact, and if we do not keep it we are a treaty-breaker ourselves, and how can we ask the nations, and how can we ask Japan or Germany, or Italy, or Russia, to keep treaties, if we do not keep them ourselves?

(2) To enforce the supreme law of our land.

The law, you know, in Article 6, says that the Constitution, the laws of the United States, and all treaties shall be the supreme law of the land. Our President by the Constitution shall take care that the laws be faithfully executed. If America does not execute its own law we are not honest, and we cannot go before God and expect His blessing.

(3) To demonstrate our unselfish good will to all nations.

My grandmother told me that molasses caught more flies than vinegar, and our approach to the nations by this invitation, calling the conference, is a friendly approach.

It has been said that it would be a menace of war to call this conference. Is it hostile to ask a nation to consider a treaty promise which its constitutional authority has ratified?

Is it not a friendly act to say that we have confidence enough in them? Hitler himself, in his attitude, we do not know what he is going to say tomorrow, but Hitler has said to George Lansbury, who has visited him and spent 2 or 3 days with him, that he wanted this conference called and hoped President Roosevelt would call it.

(4) To demonstrate our courageous trust in God.

There is said to be some uncertainty as to what might come out of it, and we do not know what the result will be. There is a risk in everything. The difference between Plato and Christ was that Plato concerned himself mainly with safeguards against evils that were coming, and Christ cleaned the temple, which was also the State House, twice, once at the beginning of his ministry, and again at the close. He was continually trusting himself to the people, and to God in order to bring God's Kingdom to Earth. The challenge of the Cross is to venture for God and the welfare of the people.

Can America, having done what it has, hesitate to trust herself to a conference which she inaugurated?

As fear creates the very thing we fear, America should not surrender to Hitler in fear psychology but overwhelm it with Christian good will.

It looks as if many of our politicians had the jitters. They are thinking too much about what the people will say. There comes a time when if you are wise—I am not a politician, and I do not know by experience I do not want to blame you for consulting the people, because that is your duty, but when the supreme moment comes, you are to represent two things, the people, and God, and you cannot leave God out of your representations.

(5) To protect the United States and all nations effectively from Soviet communism, from nazi-ism, and from fascism which are more dangerous to us than our foreign foes.

We cannot simply keep out of war. Our job is to keep war out of the world. That is the only safe way, and that is your chief responsibility.

(6) To fulfill our sacred treaty obligations to China under the Nine Power Treaty, to which Italy and Japan were signatories in 1922, as stated in sections 2 and 3 of article 1 of that treaty, which reads as follows:

Section 2: To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an efficient and stable government.

Under the Nine Power Treaty, we are duty bound to defend China. Therefore we are obligated to call the conference of all nations. Here is the final reason for calling the conference.

(7) You are under obligation, legally, morally, and spiritually, to endorse the sincerity and wisdom of Secretary Hull's letter of July 16, 1937, to all nations, to which more than 60 nations made friendly replies. The Secretary of State has made the most careful study of this matter, and not only to endorse that, but to revive President Roosevelt's famous peace speech at Chicago of October 5, 1937, which thrilled the whole world, up to that point he was full of enthusiasm for keeping the Kellogg Pact. The silence and confusion of the peace organizations, and of people generally, made him hesitate as to whether the public was going to support him in his leadership for peace.

Now, he needs your support. Dr. Libby, who spoke yesterday, has control of one of the largest peace organizations in the country, and you heard him criticize the President for proposing that the lawless nations be quarantined. I can simply differ profoundly with him, while admiring him as one of the greatest leaders among the peace organizations. I think that there are some 30 peace organizations, under his direction opposing the President peace plans assuming that the President desires to do something that would be offensive to other nations.

A quarantining of a sick person or ship is for the good of the patient and the community. What so terrible is there about quarantining somebody with scarlet fever? Is it a thing that is to be criticized?

In the printed document which I will give the members of this committee, you will find the salient parts of the President's famous peace speech, and the reasons why it ought to be endorsed and supported at this moment, not only for those reasons, but also because of Secretary Hull's speech yesterday, to the Red Cross. He said:

Every thoughtful man today, in every country of the world, is confronted with the inescapable duty of weighing-- in the scales of reason, common sense, his own advantage, and the good of his nation--

See what a splendid, wide reach he has, that it is your duty, in this Nation, to consider common sense, his own advantage, and the good of his nation--

The benefits of living in a world functioning on the basis of the principles I have just enumerated against the prospect of living in a world caught in the stifling net of anguish and suffering engendered by the constant recurrence of war, of preparation for armed hostilities, and of the aftermath of armed conflict.

I, for one, cannot believe that any nation today has irrevocably entered upon a road from which there is no turning, save in the direction of a new widespread war. The road to peaceful adjustment of whatever reasonable and legitimate grievances there may exist has always been open and is still open.

See how he thinks of this conference, as still possible.

But upon this road one must travel with a sincere desire for peace, with a firm determination to observe the pledged word once given with a sense of respect for the dignity of the human soul. I hope with all my heart that at the present fateful juncture of history, all nations will decide to enter upon this road.

Now, the question is, are we so afraid of what Hitler and corrupt influence might have in this conference that we do not dare to take the step? It is a question of Christian courage, gentlemen, a question of whether you really believe in God or not, and whether He has blessed us in the years that are past, and whether we can be honest and law-abiding citizens, and keep our treaty promises to the rest of the world, and look at the coming generation; shall we involve all civilization?

It is not merely the bombers that will be cruel to women and children, but you, yourselves will betray coming generations at this most critical moment in the world's whole history, because you had not the insight and courage to perform your sworn duty for which you were elected.

I thank you, gentlemen.

Mr. BLOOM. Thank you very much, Dr. Chase, for your very enlightening statement.

Dr. CHASE. There is a resolution that I have. Will you read the resolution?

Mr. BLOOM (reading):

Whereas the President of the United States on July 24, 1929, proclaimed that the General Pact for the Renunciation of War was in effect, as it had been ratified by all of the 15 original signatory nations in accordance with article 3 of the pact; Whereas article 3 provided that "this treaty when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other powers of the world";

Whereas on September 27, 1938, President Roosevelt in his first message to Mr. Hitler, said: "It is imperative that peoples everywhere recall that every civilized nation of the world voluntarily assumed the solemn obligations of the Kellogg-Briand Pact of 1928 to solve controversies only by pacific methods";

Whereas section 2 of article II of the Constitution provides that, "The President shall take care that the law is faithfully executed";

Whereas the second paragraph of article VI of the Constitution says: "The Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land"; and

Whereas *ex parte Merryman*, 17 Fed. Case No. 9487186 (decision used in the annotated edition of the Constitution, 9938) says: "The President is not authorized to execute the laws himself or through agents or officers appointed by him, but he is to take care that the laws be faithfully carried into execution as they are expounded and adjudged by the coordinate branches": Therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That in view of the confusion of public thought and the misunderstanding by mankind concerning the reasons for his postponement of his executive duty to effectuate the General Pact for the Renunciation of War, which became the supreme law of the land 10 years ago, the Congress advises the President that the opportune time has come for him to call a conference of all signatory nations. (*Curtis-Wright case*, 299 U. S. 304 (1936).)

He will then put into action that which was in his heart on October 5, 1937, when he made his Chicago peace address which thrilled the world. He will redeem the pledge which he made last Christmas eve to do all in his power to hasten the day when nations shall learn war no more. The Congress therefore advises

the President to call a conference of all nations signatory to the General Pact for the Renunciation of War, in America, inviting them to act in accordance with their plighted treaty pledge. Such action will demonstrate our trust in God, in international good will, and our desire that the conference shall act justly for all nations and for all peoples in the world.

Dr. CHASE. I did not make the point, Mr. Chairman, which is very important. The pact went into effect on the 24th of July, in 1929, when Herbert Hoover was President, and Mr. Stimson was the Secretary of State, and if President Hoover had performed his duty in 1931, when Japan attacked China we would now have had none of this war trouble. Mr. Hoover left it to the League of Nations to deal with Japan. The League of Nations asked him, and he sent a representative to Geneva. In so doing, he shirked his duty. I read Mr. Stimson's book, *Far Eastern Crisis*. I have no harsh criticism, I just put it so strongly in order that we may see the thing just as it is. He, in the *Far East Crisis*, splendidly presents his reasons for not doing it, and you cannot blame him, in one sense, for not doing it, but if he had called Japan's bluff, in 1931, Japan would not have ever tried it again, and Italy would never have seized Ethiopia. Our President had his chance in October 1935 when the League of Nations unanimously denounced Italy as about to be an aggressor. At that time—he notified the ambassador here in Washington, saying that the Paris pact was in effect, but he did not call the conference of the nations, which would have mobilized the public sentiment of the world against Italy.

Now, I have been told—and I do not know this, and I do not want to say what I do not know, but I have been told on what is pretty good authority, that there was a promise from Italy that if he would not call the conference, that they would not go to war.

I do not know whether that is so or not, but something in his own good judgment evidently prevented further action. Had he called the conference at that time, Italy would not have raped Ethiopia, and the Spanish rebellion would not have occurred. Furthermore, you would have had a peaceful settlement of the rebellion in Spain, if it had occurred. The resolution therefore makes the point that the pact went into effect on July 24, 1929. There was a celebration of the event here in Washington in which Mr. Stimson and President Hoover took part, announcing that it was the policy of the United States. All this has been forgotten.

Mr. BLOOM. Thank you very much, Dr. Chase, for your very enlightening statement, and the committee feels very grateful to you.

Mr. BLOOM. Representative Lee E. Geyer of California will be our next witness.

#### STATEMENT OF HON. LEE E. GEYER, REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. GEYER. Mr. Chairman, and members of the committee: I will not take very long unless you gentlemen prolong my time by questions. I have prepared a statement here. I am the author of the same bill that Senator Thomas is author of over in the Senate.

I am very glad that the faculty of Texas University sent us that very fine letter this morning, which is really much more scholarly and much better handled than I could do it myself, so perhaps the very short statement that I have here will suffice to cover the field.

You find this bill on page 47 of the committee print, if you want to refer to it as we go along.

I am appearing on behalf of House Joint Resolution 226<sup>1</sup>—this is the same amendment as that introduced in the Senate by Senator Thomas of Utah, Senate Joint Resolution 67. Not that I expect to enlighten this committee, who are no doubt more familiar with our international problems than I, but because I desire to lay a foundation, I wish to make a few brief opening remarks.

Let me say at the outset that I am interested primarily in keeping this country out of war, and preserving its institutions. When I say this I am not thinking only in terms of today and tomorrow but of the future—the days of our children and grandchildren.

We are facing times and conditions that are not normal—hence we must take advice given to us years ago and precedents established in the past in the light of present-day developments. The code of behavior, which we call international law, built up between the nations for generations has been ruthlessly violated by three of the world powers whenever it has been to their own selfish advantage to do so.

We have a neutrality law that is decidedly “unneutral.” As the President says:

When we deliberately try to legislate neutrality, our neutrality laws may operate unevenly and unfairly—may actually give aid to an aggressor and deny it to the victim. The instinct of self-preservation should warn us that we ought not to let that happen any more.

If we embargo only arms and think we are escaping the guilt of arming a murderer we are but kidding ourselves. We would need to stop supplying the raw material from which arms are made. Most countries are in position to make the arms if they can obtain the raw material.

If we apply only the “cash and carry” features of the law, we find ourselves taking sides whether we like it or not. We immediately place ourselves on the side of the countries who control the seas and have the ease with which to buy. We would be aiding Great Britain in the Atlantic and Japan in the Pacific under the guise of being neutral.

If we continue to supply arms to those who are treaty breakers—international outlaws—we are only assisting them in their ruthlessness and making stronger our own enemies of the future, who will have, in time, reduced the nations one by one and from the loot reconstructed their power until we become the victim of our own folly.

If we wish to keep out of war in this day when nations are so interrelated in every way, we must assist by helping to prevent the starting of another World War.

Any foreign policy to be effective and moral must contain the following:

1. Designate and refuse to assist an aggressor nation.
2. Embargo the materials from which arms are made as well as the arms themselves.
3. Show our disapproval in no uncertain way, by methods short of war, of those nations that have broken treaties with us.
4. Show by our legislation that the American people are not cowards, insensible to aggression and cruelty.

The amendment, H. J. Res. 226,<sup>1</sup> now before us, will fulfill these requirements. Briefly it does this:

<sup>1</sup> See p. 622.



1. In case of war it allows the President to declare an embargo on the warring nations on materials "of use in war" as well as arms and implements of war.

2. It would allow the President, with the consent of the Congress, to lift the embargo from the victim of the aggressor nation while retaining it on the aggressor.

3. The aggressor nation would be the one that had broken a treaty to which she, with the United States, was signatory.

The argument will be made that this makes us take sides. My reply is that this is not the case any more than now under our present "cash and carry." The aggressor nation might not like it, but she will not engage us with our strength because of the demands of the war in which she is already engaged.

The totalitarian nations already have showed their teeth to us and this will not change their attitude. Besides, this policy will have been decided upon by us before war is declared and it will be an act of the aggressor country and not ours that really results in the boycott to them.

Because of our size, economic and physical power, coupled with the isolation of our country, we should not fear to do the moral thing in helping stop a potential enemy while we are able to do it without the use of force.

If there are any questions I shall be glad to do my best to answer them.

Now, let me say right here, as a matter of determining the aggressor, we simply would say, in Japan's case, for instance, she has broken both the Nine Power Treaty and the Kellogg Pact, and therefore she is the aggressor in the case of China at the present time, and from her we would withhold the materials of war as well as the implements of war, but we could, if Congress and the President so desired, allow China to receive these.

The argument will be made that this makes us take sides. My reply is that this is not the case any more than under our present cash and carry. The aggressor nation might not like it, but she will not engage us with our strength, because of the demands of war in which she is already engaged.

Besides, this policy will have been decided upon before war is declared, and we should not fear to do the moral thing in helping stop a potential enemy while we are able to do it without the use of force.

That, gentlemen, concludes my statement on this resolution.

Mr. BLOOM. Thank you, Mr. Geyer, for appearing before this committee, and we appreciate it very much.

Mr. BLOOM. The next witness is Prof. D. F. Fleming. Professor Fleming is from Vanderbilt University, Nashville, Tenn.

**STATEMENT OF DR. D. F. FLEMING, VANDERBILT UNIVERSITY,  
NASHVILLE, TENN.**

Mr. BLOOM. Professor Fleming, have you a prepared statement?

Dr. FLEMING. My remarks will be directed to the conclusion that the full economic power of the United States should be exerted against Japan as well as against Germany, while there is time to prevent enormous military empires from arising on both sides of us.

May I say before I begin, gentlemen, that this manuscript is not as long as it looks. I have cut it considerably, and if your patience endures I can finish it in about 35 minutes.

Before I begin I would like to quote for a moment from an editorial in the World-Telegram of yesterday evening, under the title "If Hitler Insists on War," in which the Telegram takes the position that the debates which are occurring in this room and at the other end of the Capitol are largely academic, its position being that the moment actual war breaks out in Europe, the whole future of the United States and of every man and woman and child in it will be at stake, from the first crack of a gun. This will be so whether we have a neutrality law or not.

Defeat for Britain and France would reduce them to second-rate powers. Their fleets would be taken over by the victors. The new balance of power would be Europe and Asia against the two Americas. We, as the one strong American state, would have our hands full. We would have to spend billions upon billions to strengthen our national defense.

We would have to provide a fleet in the Atlantic at least as large as the combined fleets of Britain, France, Germany, and Italy, because all these would be under one control. And in the Pacific we would have to provide a fleet as large as Japan's. We would have to maintain a navy more than double the size of the one we now have. And if the latter costs us \$400,000,000 a year to maintain, the upkeep of the larger establishment would be at least a billion.

But that would be only the beginning. As communications improved and distances shrank the danger of invasion would, of course, increase. Canada, Mexico, Central America, and northern South America would be particularly vulnerable, and from them we could be attacked by land as well as by sea and air. That means we would find ourselves in much the same position as the nations of Europe. We would have to maintain an enormous standing army, perhaps a million men or more, to guard our far-flung frontiers.

Today we have an army of 184,000 men. This costs the taxpayers about \$400,000,000 annually. An army a million strong would cost us approximately 2 billion dollars annually. Add another billion for an adequate air force and our defense budget would foot up to something like 4 billion dollars a year.

So let us not deceive ourselves that a war between the Rome-Berlin axis and the London-Paris coalition would not affect us if we refrained from deliberately taking sides.

The present European balance of power permits us to lead a fairly secure existence. But let Britain and France be destroyed and an aggressive alliance of powerful, land-grabbing nations have free rein in Europe and Asia and our future would be dark indeed.

If what we have said above is true, and we are convinced it is, then for us there are only two avenues of escape. One is named peace. The other is named victory—victory for Britain and France if there must be a war.

It seems to me, as a student of history, that that is a statement which is likely to prove in the future to be not the imaginings of an editor who has to write something, but a cold, hard, matter-of-fact prediction of what is ahead of us. So long as all of the great powers except the United States were in Europe, it was possible for us to conceive of ourselves as playing the traditional role of England, usually aloof, and intervening only when necessary to dispose of some dangerous challenger, but Japan's drive for world power has put such a policy beyond our grasp.

It is true enough that another leap by Britain into the continental arena promises to bring to a swift head the clash between the Rome-Berlin axis and the European powers which are seeking to defend themselves, and the probability of our power being required to decide the issue is much greater than in 1914 because the new Germany is so much more dangerous to the free institutions everywhere than the

old Germany was, yet it is Japan's gigantic campaign of piracy which makes the world balance of power inescapable.

When the great powers now circle the whole of the globe, when three great nations are engaged in seizing by force or the threat of it every foot of land which can be pounced upon, when we have tremendous freebooting campaigns in full cry on both sides of us, when the productivity of half a billion people in Asia and an equal number in Europe is thrown out of gear, when immense propaganda drives attempt to make the whole of the New World, especially to the south of us, a welter of strife in which Fascist plans can prosper, when these disruptive movements daily menace every unconquered nation on the globe, without exception, we do not have to decide whether we shall or shall not play balance-of-power politics.

Nor is there any practical possibility of our ever escaping again from the politics of a world in which no law is observed, no treaty respected, no order preserved. It is just as reasonable to expect that the earth would continue to spin evenly upon its axis after the Western Hemisphere had been sliced off as to foresee any world political equilibrium without the powerful participation of the United States, the greatest of world powers. The very immensity of our own riches gives us a power which must be exerted.

The nation which controls 42 percent of the world's coal, 38 percent of its iron, 65 percent of its oil, 47 percent of its copper, 36 percent of its lead, and 50 percent of its cotton cannot be other than the greatest weight in the international balance, with a responsibility for international order commensurate with its power.

The nation which has the greatest stake in the world's trade cannot live permanently in a chaos of lawlessness. Far from being aloof from the new balance of power, which we blindly allowed to develop, this Nation is the balance. There is no possible world balance without us and will never be again. We shall supply a balance on the side of law and order or we shall become the ham in the sandwich of the totalitarian powers.

The time when we could choose between safety and danger has passed. There is no longer anything to be gained by concealing from ourselves that in 1919 and 1920 the American people followed false leaders and took the wrong road. Instead of throwing our incomparable authority behind the League of Nations, we chose to turn our backs upon it and tried to kill it by ignoring it. Instead of buttressing the League with the greatest moral authority which any nation ever enjoyed, we undermined the League in its early years, by our example of abstention and by a policy of noncooperation. Instead of letting all future disturbers of the peace know that our colossal economic power would be thrown decisively against them, we headed the procession of nations, little and big, which began to disavow and water down their obligations to the League and left a developing crop of Caesars secure in the pride of their own invincible determination. Instead of establishing law and order internationally when the power was in our hands, we chose the restoration of international anarchy. Now we have it, and there is no escape from the jungle except by pain and sacrifice, enormous expense, and dangerous decisions.

If nothing else made our participation in the present and future balance of power struggles practically certain, the Monroe Doctrine would. The principle of the Doctrine was, and is, sound, but in an

era of gangster wars it is a plain invitation to combat. We say to the predatory powers: "You must establish no sovereign control (the only kind which matters to them) over the great riches of the western Hemisphere."

They say to us: "We shall penetrate all of your defenses (a) by perpetual propaganda, especially through Fascist Spain, which you cannot match; (b) by subsidized military trade tactics which your laissez faire trade methods cannot meet; (c) by sending swarms of agents, commercial and otherwise, who will foment disunity in the Latin-American States, by organizing German and Italian 'minorities' and by winning over the aristocratic ruling classes to fascism; and (d) by taking over the West African coast from France and Britain and establishing our military power so much closer to South America that your guaranty will be inoperative, particularly since you will have to fight both upon Atlantic and Pacific fronts."

These threats, too, cannot be parried if the Fascist powers continue to conquer in Europe. If the Fascist principle that the dynamic will to power, freed of all moral restraints, can accomplish everything, triumphs in Europe, it will sweep into South America—and North America—in spite of all efforts to stop it. Europe and the New World form an indivisible civilization which cannot be permanently divided. If Fascist totalitarianism continues to "produce the goods" in Europe, it will leap the waters of the South Atlantic, in spite of all efforts on our part to prevent it.

To day, the entire world finds itself unwillingly engaged in war. Some 50 nations do not want war; they hate and detest it, but every one of them is a present battleground, on which the Fascists are already fighting with military trade tactics, with desperate intrigue, with money, and violent ideas incessantly propounded.

Whether the world will go to war with the fascist freebooters or not is no longer an issue. The war is on and the only choice the free nations have is whether they will defend themselves or succumb to the conquering fascists.

This plainly existent situation removes from us the choice of whether we will resort to "measures short of war" to resist the fascist invasions. Unless we mean to capitulate, we are compelled to use every means at our command to stop the tide of fascist aggression. To wait for declarations of war is utterly fanciful, as the fate of Manchuria, Ethiopia, Czechoslovakia, and China proves. There will be no declarations of war, unless the democratic powers choose to utter them. The entire globe can be ravaged, so far as the fascists are concerned, without any superfluous war declarations.

The whole effort to sew the American people up in a sheet of peaceful isolation, with the thread called "no declaration of war without a direct vote of the people," is built upon 1914-17 psychology which is already prehistoric so far as the fascists are concerned. Nothing would please them better than for the world's most powerful people to stop in the midst of the successful war which fascism has been waging for years, in order to debate whether war should be "declared," if it should come.

The purpose of the fascist triplice is utterly plain. It is to strangle themselves economically for a term of years in order to conquer vast empires. To succeed they must get, by every means, foul and fair, the essential sinews of war from the nations which they intend to

conquer. Hence it is not enough for the democracies to arm to the teeth; they must also keep from the hands of the predatory regimes the essential sinews of war. Otherwise, the fascists will steadily seize this area and that, feeding the resources of each new conquest into their war machines, until the remaining free peoples have to accept unlimited military conflict on a world scale.

The stark facts which confront us are that autocratic regimes which deny every premise upon which American life is built are grasping avidly for the domination of the billion people who live on the two tips of the Eurasian continent—both areas being our maritime neighbors. With all the resolution that fanaticism can muster, the three fascist regimes are plunging toward the subjugation of Europe and East Asia. Both in Europe and Asia they would prefer limited wars, one after another, and they confidently expect that the supineness of the democracies will enable them to advance a step at a time until the colonial empires of the great democracies can be had at the end of a final struggle.

Up to the Anglo-British pledge to Poland, on March 31, the British and French democracies pursued the suicidal policy of throwing the Chinese, Ethiopian, Czechs, and other free people into the maws of the advancing war machines, in the hope that they might become appeased. Such a policy was self-defeating from the beginning. It but enlarged and brought nearer the bill for the final reckoning. It is an inexorable law that neither individuals nor nations can be safe while the weakest among them are subject to unrestrained and unpunished attack. The nations which will not defend other free peoples from subjugation can not expect to receive aid from others when they themselves are attacked, and they are most likely to discover that their own power to defend themselves has been dangerously impaired, both morally and materially.

At the moment it is the British and the French who are suffering most from this shortsightedness; tomorrow it may be the United States. We are ahead of the European democracies in realizing that they are confronted in Europe with the deadliest of threats. But on our western doorstep the Japanese are already much in advance of Hitler and Mussolini. Throwing every subterfuge to the winds, the Japanese have swept an area as large as Europe with fire and sword, and if they consolidate their grip on China we shall have to deal with the ultimate consequences, not the British and the French.

So far, though, we have done little to ward off these consequences. For many months our statesmen have been deploring the fact that it is our oil, iron, cotton, and other raw materials, not to mention vital alloys and machinery, which is keeping the Japanese war machine running. As long ago as October 7, 1937, former Secretary of State Stimson asked the American people in all earnestness, whether our safety required "that we go on helping Japan to exterminate \* \* \* the gallant Chinese soldiers with which she is confronted—not to speak of the civilian Chinese population that she is engaged in terrorizing." Secretary Hull, too, has succeeded in inducing an airplane manufacturer to stop sending military air equipment to Japan. The unofficial boycott of Japanese goods by outraged American citizens has also helped to reduce Japan's sales to us from \$192,000,000 in 1937 to \$115,000,000 in 1938, with a corresponding drop in our exports to Japan.

These unofficial pressures have done something to lessen Japan's striking power, but they are far from being enough. The time for official action has come, action strong enough to give real hope to China and to diminish noticeably Japan's capacity for mischief.

What steps "short of war" would constitute such a program? The following measures are suggested, not with any hope of quick and miraculous results, but as evidence that we have not resigned from civilization and that we do not intend to live in a world in which we are hemmed in by outlaw powers whose capacities make all international life intolerably uncertain and dangerous.

1. The recall of our ambassador to Japan for an extended and indefinite period of consultation. Japan's crimes in China are in bulk distinctly greater than those which Germany has yet committed, and they are potentially as dangerous to our world position as those of Germany. By their acts and by their long-planned campaign to demolish all the steps toward peace and order which the world has taken since 1918, both Germany and Japan have broken all the connections which bound them to the family of nations. There is not a single moral bond left between these nations and the United States. Nor is that all. Every material tie that will not aid their campaign of conquest has been deliberately broken by them. There is no useful purpose in maintaining full diplomatic relations with powers which have outlawed themselves from the international society. It is far better to recognize that a gulf has been created which cannot be bridged, until governments exist in Japan and Germany which will recognize, at the very least, the elementary rights of other nations to life.

2. We can both strengthen the hope of ultimate victory in the Chinese and aid them to its fulfillment by liberal advances of credit, for military supplies. The \$25,000,000 which we advanced to the Chinese last December was an earnest of good intentions, but nothing more. It should be followed by far larger sums, to be advanced as fast as China can make good use of them. It will be much cheaper to aid China while she can resist, than to suffer the consequence of her full subjection. The wealth of the democracies will do them little good if they do not use some of it to wear down and defeat aggression before it is outside the doors of their own coffers.

3. Our silver purchase program should be continued until the war in China is over. Though it has accomplished none of its avowed purposes, and although it drove China from the silver standard and gave her a grave economic crisis in 1935, our purchase of silver is now aiding powerfully to stabilize China's currency and to enable her to continue the war. The repeal of the silver law now might extinguish China's independence quickly.

4. The most urgent measure short of war which presses for decision is the repeal or drastic modification of the "neutrality" act. The whole attempt to ignore the return of powerful nations to gangster morality was predestined to fail. The effort to pose as an unconcerned onlooker who would make no distinctions between the aggressor and his victim, between peoples struggling for freedom, and others bent on brutally enslaving them, was an incitement to the aggressors to make the earth an intolerable bedlam of strife and conquest. For at least two decades the world has been far too small to hold three powerful predatory nations among many peaceful ones. Our entire

effort to legislate impartially, between those who would defend orderly international relations and those who are bent upon reducing all international intercourse to the primitive basis of tooth and claw, is an invitation to disaster, an invitation which has been outstanding long enough. It should be withdrawn with all possible speed.

The pending Pittman proposal to put all supplies, including munitions, on a cash and carry basis might not make China's position much worse than it is, but that is cold comfort to a great people who are struggling for life itself. No measure short of war can keep Japan from carrying across the Pacific such supplies as we will sell and such as she can pay for. Therefore we will still fight for Japan if we put China on the same cash basis with her.

The Pittman bill would indeed favor the free peoples in Europe because they still have both the cash and the carrying facilities. But any law which does not increase the flow of aid to China and decrease it to Japan is a pitifully weak compromise which is unjustified from any standpoint. The need of France and Britain is real enough, but it is not yet so desperate as that of China. She has already had inflicted on her everything which Western Europe may soon feel. China's crisis is already here and the danger that our inaction will doom her to subjection is instant and utterly urgent.

5. The fifth measure short of war which is ripe for application to Japan is the application of tariffs which will reduce her ability to get supplies, both here and elsewhere. We have already begun to apply this retaliatory pressure to Germany. Its use against Japan is long overdue.

There is now no course open to the American people by which they can live either in tranquility or in seclusion. Due in no small part to our refusal to have any share in the post-war effort to establish the first rudiments of world government, we now live in the midst of an international anarchy that is global in scope and growing steadily worse. Today, due to Japan's reassertion of the law of the jungle, there are 600,000,000 people in Asia who are living from day to day only, fearful, uncertain, unable either to produce or to buy the goods which they and the world need. This destructive turmoil, too, promises to last as long as Japanese military power does. At this moment there is not a family on the European continent, outside of the German and Italian Fascist machines, which does not live under the dread of the next Fascist blow. Everyone abides in fear, knowing that nothing can be depended on, that even the most precious of human rights is in imminent danger of total extinction. Throughout the whole of Central Europe the fear of the Nazi heel half paralyzes life. How can people plan and work when everything may be taken from them tomorrow? How can the great commercial and banking mechanisms which keep modern life going operate when the people of all the great cities go about knowing that death on a colossal scale may rain from the skies on any clear day or night without even the slightest diplomatic warning? Men cannot invest and take the risks of business when the world's public enemies have destroyed every confidence which people must have to live a tolerable existence, let alone to create wealth. Citizens who must calculate whether the death rate from German bombs could be held down to 100,000 a week in the London area can put only limited energy into producing goods.

and services. Their real efforts must be poured into unproductive defense preparations.

Nor is the disintegration of civilized life confined to Asia and Europe. It spreads to the ends of the earth. In the far antipodes the people of Australia and New Zealand know that their fate is in the balance. The Boers of South Africa, and the British there, know that they may have to fight for existence. All South America is a battleground upon which the German, Italian, and Spanish Fascists strive by every known device to capture markets and destroy none too solidly developed democratic ways of life.

Under these circumstances it is futile to expect that there is going to be any normal life or economic activity for the American people until the madness which terrorizes the people of every nation is destroyed. All expectations of recovery and stable prosperity in the United States are unattainable dreams. There will be no economic security for this people or for any other until the present world war is over. The security and happiness of every people on the globe depends upon its freedom to trade, honorably and peacefully, with every other people. The attempt of the Japanese and Germans to make vast colonies out of peoples which are their equals or superiors can only yield constant and increasing insecurity for all nations, including the Japanese and the Germans.

A policy of abandoning such parts of the earth as the predatory powers may fancy would be short-sighted indeed. When we are rapidly entering into an age of ever swifter communication and ever greater need of goods from every part of the globe, it would be a strange thing for the world's greatest nation to passively permit a great part of the world to be closed against it. We have not invented for nothing the means of ranging over the whole earth in the search of the things we require and desire. Every continent and every clime needs the products of our industry, as we need theirs. Broadly speaking, the world is still to be developed, and it is almost unthinkable that American inventiveness, initiative and ability shall not play its fair part in the immense undertakings which are to come.

It is therefore a matter of the most urgent importance to us, as the world's leading commercial power, that Japan is in process of closing off the whole of east Asia as a preserve for Japanese exploitation and monopoly control. The Japanese purpose in China is too clear to admit of doubt. It has been demonstrated daily in Manchuria and China since 1931. The gradual forcing out of foreign firms, the establishment of Japanese monopolies, the seizure of control of all Chinese enterprises, the suppression of Chinese undertakings which conflict too much with industries in Japan, the enslavement of the Chinese people and their degradation by opium—these are the clear outlines of Japan's endeavor. The talk of forcing China to join an anti-Russian Communist alliance is merely the screen. What Japan is doing is to make a huge colony of China, one in which the Chinese are to become the economic slaves of Japan. They are to remain a backward, subjected agricultural people, paying tribute to Japan on every hand and sweating to pour into Japan the raw materials which will make her into a real industrial and military colossus.

Unquestionably, American businessmen can share to a limited extent in this wholesale looting of China. None of the fat of the land will go to them, but Japan desperately needs capital to develop more



rapidly her gigantic new colony. She will share the lesser gains with any American capitalists who will now come forward, everything to be on Japanese terms and subject to strict control, but nevertheless of benefit to our trade. It might take a long time to recover the estimated \$225,000,000 in trade with China which we have lost due to Japan's devastating attacks of the past 2 years, but there are returns to be had from teaming with Japan in the future exploitation of China to the extent that German and Italian interests cannot help the Japanese. Where they can do so we may expect the Japanese to use them, and to turn all favors their way, rather than to us. They will prefer to share the spoils with the sympathetic totalitarians who gave them indispensable political aid and comfort during the conquest.

Any hopes which we may have of tapping China's trade through Japan would seem to be infinitely short-sighted. Japan is now almost a full totalitarian state, in her ambitions as well as her economic practices. If we continue to help her to fasten her hold on China, there will be little but disillusionment ahead. It may seem to American cotton farmers and traders that it is better to try to hold on to the great cotton trade with Japan. With a huge surplus of unsalable cotton already on our hands, how can we do without the Japanese market, our largest before the war sharply reduced it? But the outcome which we may look forward to with perfect confidence is that Japan will compel so many millions of Chinese to grow cotton for her, at the world's lowest existence wages, that the Japanese buying of American cotton will soon cease entirely. As for Japanese silk trade which pays for their cotton purchases here, it is due for drastic curtailment anyway, if we may believe the repeated authoritative announcements of the Du Pont laboratories, that a fully successful artificial silk has been perfected.

But the total loss of our cotton trade with Japan is only one of the smallest of the consequences of Japanese victory in China. If we continue to permit and assist the conquest of China, Japan will soon have a firm grip on the minerals and other raw materials necessary to become a tremendous military power. Eventually she will be able to challenge and perhaps defeat Russia, with German aid, taking over the vast resources in the almost limitless reaches of eastern Siberia. With China's coal and iron in her grasp, Japan can also build a navy which will make her naval competition with us a long-drawn-out duel of intense strain and mounting fear, comparable to the deadly naval race between Germany and Britain from 1905 to 1914. The real start of such a Japanese-American armament race only awaits the "pacification" of China by Japan. Once that is accomplished nothing is more certain than that Japan will strain every nerve to become the giant on the sea that she will have become on land.

There can hardly be a reasonable doubt that the interests of the United States, including this greatest of interests, future security, will be served by a Chinese victory in the present war. If Japan is defeated, China will swiftly undergo a national revival such as the world has never seen. The present splendid unification of the Chinese people will proceed swiftly along with the rapid industrialization and development of the country. Then, to be sure, China will be no happy hunting ground for American or European concession hunters.

Once master in her own house, China will use her resources for the benefit of her own people. But she will need and desire to receive aid from many sources, and as China becomes industrialized and modernized her standard of living will rise steadily, and with it commerce with the entire world. No nation, unless it be Japan, is so well fitted as our own, by geography and equipment, to benefit from a freely developing China. No nation whatever has a tradition of friendship for China comparable to ours.

That tradition of friendship, too, is a tremendous asset which we should not let slip away from us. It may be that China is due to undergo a long night of suffering and ignominy at the hands of Japan, but the spark of nationalism has been struck in the Chinese people, and it would be strange if in the last analysis, perhaps generations hence, they did not gain their independence. In such an event we may be sure that the memories of the Chinese people about our weakness and stupidity in their hour of need would be long and bitter.

But eventual Chinese success is a contingency on which we ought not to gamble. Japan might win through all along the line, and establish a long-time empire on our western frontier such as even China in her long history has not seen. Now is the time of decision.

Our one chance to have a good neighbor on our west is to see to it that China wins her courageous fight for liberty now, or at least that she does not lose it because of our aid and sustenance to the conqueror. If Japan wins decisively, we shall have before us exhausting arms races and conflicts without end. If China wins against the might of our economic power exerted on Japan's behalf she may not be much more considerate of us than Japan. Nor can we avoid the responsibility for a decision in this epochal crisis by inactivity. Every day that we drift helps Japan on the way to the mastery of east Asia, by the powerful aid of our oil, machinery, scrap iron, cotton, and other indispensable supplies.

We no longer have the excuse for continued drifting, either, that we are not quite certain that a world crisis of the greatest magnitude is upon us. The final rape of Czechoslovakia has removed all doubt on that score.

We have retaliated to this act of international brigandage, too, by levying almost prohibitive tariffs on German goods. The German trucks had hardly rolled away from the doors of the Czech national bank, carrying away the \$80,000,000 in gold saved during 20 years of devoted labor by the Czech people, before the United States had levied economic sanctions against Germany—a retaliation long earned by the military and discriminatory trade methods of the Nazis.

Our virtual trade embargo against the Nazis was richly earned. But Japan has actually done far more to deserve our retaliatory action. The German conquest of the Czechs has been both despicable and brutal, but it has been a mild performance when compared with the gigantic campaign of slaughter and rapine which Japan has waged, and is still waging, in China. The effort of Japan to assert the unlimited rule of brute force is also distinctly more directly our own problem than the similar effort of Germany. That would not be true should France and Britain go under, but unless and until they do we have a screen between us and the European threat to take whatever Germany and Italy are strong enough to seize. In the Far East we have no such curtain of power between us and the Japanese attempt at world conquest.

Mr. BLOOM. Are there any questions you would like to ask the professor?

Mr. IZAC. I think you made a very fine statement, and now, Professor, would you feel that if we gave the power to our State Department, or our President, to declare nonintercourse, we will say, with an aggressor nation on some such terms as these, it would be effective or not, and I will outline the terms:

For instance, to Japan, that if they do not keep open the Open Door to China, that we therefore will not permit trade with them; would that be effective?

Dr. FLEMING. I am not committed, necessarily, to full executive discretion. My own feeling is that in the long run we must trust the Executive, that if we cannot get people in the State Department and the Presidency that we can trust, there is not much chance of our coping with the dictatorships. It seems to me that we must trust to the discretion of the Executive to a very large measure, but I would not be opposed to the Congress itself taking the steps which would shut off our aid to Japan, if that seemed the wiser course to this committee, but I do think that there would probably have to be some executive initiative or advice to Congress in the matter.

Is that definite enough?

Mr. IZAC. - I was just wondering whether you thought it would be effective, if we had such a law on the statute books, that the President, or the President with the consent of Congress, should be in such a position that he could declare an embargo against those nations who did not reciprocate to us.

Dr. FLEMING. Yes; I think that that would be a safer situation than to have complete initiative in the hands of the Fascist dictators, so that they could move in any direction with their whole power, at any time that they wanted to. That would be safer than for us not to have any executive initiative, any ability to counter them, in their own terms.

Mr. BLOOM. Any further questions?

Mr. JOHNSON. It was a very able statement you presented, Professor Fleming, in analyzing the situation, and you did not give us any concrete application, though, as to what form the law should take, except as I gathered, that you favored the repeal of the present neutrality law. Is there any affirmative action that you think this committee should take other than to recommend the repeal of existing neutrality law?

Dr. FLEMING. Yes; it does seem to me that the Congress might well take an initiative toward shutting off our trade in the essential raw materials with Japan. I have been a little uncertain as to why some steps in that direction have not been taken.

Mr. JOHNSON. You mean as applied directly to Japan, just a joint resolution by Congress levying an embargo against all shipments to Japan of all commodities?

Dr. FLEMING. Or giving power to the Executive, if necessary. It does seem to me a strange thing that Japan has done so much more in bulk, and enormity of crimes, than Germany has committed, and that we have been able to exert pressure against Germany, and very effective pressure, which I think almost no one disagrees with, but yet Japan, which is in a sense our own problem, is running her course, and yet we have not been able to take the same measures.

I have been supposing that that was because the Executive did not have power to take the same steps against Japan, and yet has taken them against Germany, and if that is the case, it would seem to me that the Congress might very well either empower the Executive, or pass a resolution of its own, which would begin to limit the flow of supplies to Japan.

I know that some people believe that it would be better to begin gradually, and by degrees, rather than to clap on a total embargo all at once, that we might very well stop the flow of certain supplies first, and then increase the pressure as might be necessary, and I am quite sure that in this connection the strategic factors would have to be considered.

That is, the oil of the Dutch East Indies, and the fact that it is not defended by a battle fleet based on a Singapore base. Those things in all probability need to be carefully considered, and I assumed that without knowing anything about it from the State Department, that that is one of the factors which they are taking heavily into account in making their movements.

MR. JOHNSON. What effect, if any, do you think it might have upon our relations with Japan, if we should invoke an embargo against her? What do you think about the probability of that, causing Japan to make war upon us?

DR. FLEMING. I do not believe that it would have that effect, partly because Japan is so heavily involved at the present time, and unable to strike at us in any effective way, but I do think that whenever any step of that sort is taken, we ought to look forward to the long conclusions so far as we can. We ought to recognize that it might in the last analysis result in the use of armed force.

MR. JOHNSON. Would you advocate the step regardless of whether it might result in an armed conflict between our Government and Japan?

DR. FLEMING. To me, Mr. Johnson, it is not a question of whether we can or cannot avoid taking some step against Japan. It seems to me that it is a question of what is the most effective and feasible step that we can take. My whole attitude is that we ought to use the lesser means first, to begin with perhaps the mildest measures, with the measures most removed from actual military conflict, and use those measures a step at a time, as carefully as we can, and I think it is not at all certain, as many people allege, that once you start on that road, there is not any way to stop short of war, that you must inevitably plunge down hill into war—that is, into actual military conflict. But if that should be the result, in the last analysis, it would be far better to get into a military conflict that way, than to wait until we are suddenly plunged in, and must use all of our resources and face the totalitarian war at the last moment, unprepared, and on the terms of the totalitarian aggressors.

MR. JOHNSON. Are you familiar with the terms of the so-called Thomas resolution in the Senate? And also, with the Guyer resolution in the House, that was mentioned here this morning?

DR. FLEMING. Yes, sir.

MR. JOHNSON. What is your view with reference to those resolutions, or that resolution? They are identical.

That gives to the President and the Congress, and of course the Congress would have that power anyway, but gives notice that the

President, with the consent of Congress, can levy an embargo against a nation that violates a treaty to which we are a party.

Dr. FLEMING. It seems to me that that would be a far safer situation than we have at the present time. I say that because I believe that these aggressive movements simply cannot be limited or controlled without some effective action on our part, some positive action. What that is to be, is to be determined by the Congress, and the Secretary of State.

Mr. JOHNSON. The Thomas amendment is suggested by Acting Chairman Bloom, that it is simply another provision, an amendment to the existing neutrality law, giving the option of exercise, if it should be deemed necessary so to do, by the President, and by Congress.

You said something about repealing the neutrality law, the present neutrality law. Did you mean by that, in its entirety, or in part?

Dr. FLEMING. It does seem to me that it would be better to repeal it entirely, than to continue it unamended, or than to continue it with the cash-and-carry proposal. I say that because I feel that it is not practicable as a proposition, a reasonable thing, to pass a law that will put our economic power on the side of those who are resisting aggression in Europe, and not put it on the side of those who are doing the same thing in Asia, when their need is so much more desperate.

Mr. JOHNSON. Is it not true, though, as a fundamental proposition, that if we were passing strict neutrality legislation, that we must weigh its effects not with respect to the effect it might have on others, but with effect it might have on our country? Is that not the thing?

If you are going to take the position that we can remain neutral, and pass a law to preserve that neutrality, that in determining the character of the law we shall have, the effects the law might have would not be taken into consideration but the effect upon our country in preserving peace.

Dr. FLEMING. I think that that is true, Mr. Johnson, but we do not disagree there, because I feel that our action should be directed wholly to the preservation of our own interests, that is our concern.

Mr. JOHNSON. You think our own interests go further than preserving our noninvolvement in war?

Dr. FLEMING. Well, it seems to me that the involvement is already so far along, that one could not answer that by yes or by no.

Mr. JOHNSON. Your idea is we are already entangled, and we cannot disentangle.

Dr. FLEMING. What I really think about it is that the present world situation is so desperate, that the action that we must take now must be directed toward the present emergency, that we cannot lay down principles, any iron principle which will preserve our safety in the rapidly changing situation.

I think that if we try to leave China out of the calculation and the Japanese invasion there, in amending the Neutrality Act, that we will defeat what we really have got to do, to protect ourselves in the present situation.

Mr. JOHNSON. There are some provisions, however, of the neutrality law, that I assume you would not be opposed to, that is, the provision of the law which creates the National Munitions Control Board, which requires the shippers of all munitions and arms to secure a permit so

that the Government can keep a record of such shipments, and where they are going, and so forth—that provision, you do not think objectionable, I assume.

Dr. FLEMING. I should think that that might well be retained.

Mr. JOHNSON. What do you think about the provision of the law which makes it unlawful for American citizens to travel on belligerent ships?

Dr. FLEMING. The last few weeks I have read six or eight of the books which allege that the United States went into the last war because of the fact that we did travel on belligerent ships, and I think that there is a good deal of force to those charges. I see no objection to some limitation upon that right.

Mr. JOHNSON. The purpose of that is, of course, to prevent incidents arising whereby our people might become inflamed and result in our involvement.

Dr. FLEMING. I wonder, however, if it is in our own interests to push the cash-and-carry idea far enough to exclude our own shipping from such war trade as may develop?

Mr. JOHNSON. The present law with reference to cash and carry will expire on May 1, and that applies to commodities other than arms, munitions, and implements of war, and of course that is a permanent law. But our existing law does provide that if the cash and carry is invoked, that our own ships shall not carry goods for belligerents.

Do you think that if we had a cash and carry, that that provision should remain, that our own ships should be prohibited from carrying materials?

Dr. FLEMING. Perhaps so, and yet one of our principal needs to preserve our world situation is a stronger merchant marine, and in case of war we would need a powerful merchant marine even more than we do in peacetime, so I wonder if some compromise could not be worked out, that would permit our ships to carry war supplies not perhaps through the direct war zone, but to the bulk of the possessions of the British and French?

Mr. SHANLEY. I take it that you are familiar with the present act, and I appreciate your problem, and I wonder if the first section—the first paragraph of the second section, where it says that whenever the President shall have issued a proclamation, under the first section on arms and ammunition, and implements of war and he finds further that placing further restrictions would inure to the benefit and protection and security of this country, he may select certain articles or materials, in addition to arms and munitions, and implements of war, and that thereafter once he makes a proclamation, it will be illegal or unlawful for American ships to carry those?

Now, does that not solve your situation?

I mean by that, I take it that you are one of those that thinks that certain basic raw materials, we will say petroleum or oil, if embargoed in the United States, would inure to the benefit of the Chinese.

Dr. FLEMING. Yes.

Mr. SHANLEY. Now, under this second section, the President may select articles A, B, and C—obviously those might be essential materials, and if he wishes to penalize or hurt the Japanese trade, he may select these and thereafter no American vessels may carry them.

Dr. FLEMING. Well, that perhaps helps a little bit, but does that not leave the commercial fleets of other powers and other countries still free to carry these supplies to Japan?

Mr. SHANLEY. That is absolutely right.

Mr. BLOOM. Any further questions?

Mr. FORD. Dr. Fleming, I take it from part of the testimony that I heard you relate to the committee, that you feel that the cash-and-carry provision of the law gives advantage to those nations who more or less have the greater sea power, and I take it further from your testimony, that you feel that the future security of this country more or less lies with the democracies of the world, and therefore we should take mandatory provisions against the totalitarian states at the present time, through economic sanctions or embargoes or whatever you may call it, is that your theory?

Dr. FLEMING. Yes, it is, but I would not lay too much stress upon the word "democracies." It seems to me that the line is really drawn between those nations that are still free, and those nations that have already been conquered.

Mr. FORD. Well, take for example, we will say that it is Britain and France against the totalitarians. You feel that the future security of this country would be more or less alined with the opposition to the German-Italian-Japanese axis, if you want to term it that way? Is that your theory?

Dr. FLEMING. Yes; I do. I do not believe that it is a practical thing to attempt to defend our own security by waiting until the aggressors come up to our own shores. I have attempted to go over that matter as carefully as I could, for a long time, and I know that it seems to many people that surely we could defend South America with our own Navy but it does not seem to me practicable to wait until the European Continent is dominated by Germany or Germany-Italy, and then attempt to do that. I think that we would find that it would be an almost impossible job, either from the military or propaganda standpoint.

I think as the editor of the World Telegram said, that it is literally true that we cannot permit Britain and France to fall, in our own security, looked at from the cold, hard matter-of-fact basis and not from any standpoint of theory or any standpoint of idealism at all but just from the practical standpoint of how we are going to best defend ourselves.

Mr. FORD. In other words, even though we might involve this country in war, military conflict, I believe, as you term it, we should take such action now, or make such movements now that would insure the future security of this country, even though it might involve us in military conflict.

Dr. FLEMING. I do not believe that we any longer have the choice of taking action or no action. It seems to me that we must take a stand, and we must make our power felt, since it is the greatest power that still exists. As to whether we should engage in military activity, it seems to me that, so far as Europe is concerned, all of our policies should be directed toward using these lesser means first. I think that it is true that, if Britain and France decide to defend their own existence, we must send them arms and munitions, in practically unlimited quantities, perhaps taking their cash as long as they have any, and when they have no longer cash supplying the arms and munitions anyway.

After that, then we would have to decide whether we should send our Navy and our Air Force.

Mr. CORBETT. As I understand—and I wanted to ask, your basic thesis is the fact that the United States is in some future danger of invasion by military empires that may be created in Europe and Asia which perhaps will be created unless we take action now to prevent it, is that correct?

Dr. FLEMING. Yes, sir.

Mr. CORBETT. Now that brings up, of course, a great many problems, and I do not know whether we will have the time to go into them or not, but are you familiar with the literature which has been written on the subject by our military and naval authorities, first of all, which indicates very clearly that the United States is the strongest defensive power in the world, and it is almost immune from attack by any combination of powers, and I believe it was Mr. Thomas, here, before our committee, testified that the Brooklyn police force could take care of any effective army that might be landed on our shores.

I will submit to you the book of Major Hargood, *We Can Defend America*, and Elliott's book, *The Ramparts We Defend*, where they conclude very definitely along with others, that we are not in danger of attack.

Now along that same theory, suppose that the axis did conquer England and France, and that would be a terrific job, do you suppose that they could risk extending a line of communications 3,000 miles across the ocean, or more than 3,000 miles, where they are exposed on both flanks and in the rear, to the hostile attacks of European enemies that they have created?

Dr. FLEMING. I think it is perfectly true that at the present time we are not liable to military invasion. I think that it is not at all unlikely that we would suffer from raids from single aircraft carriers, perhaps, or from some swiftly moving hostile fleet, but that is not a matter of consequence. We are still safe from real conquest. There is nobody that can land a great force upon this continent within our own borders, and make it stick. That is perfectly true, but it seems to me just as true that with the present rate of acceleration in the development of means of communication, notably aircraft, that we cannot at all be assured that that is going to be true 50 years or even 25 years from now, or perhaps 10 years from now.

As for the conquest of France and Great Britain by Germany, I agree that that would probably be a difficult task, and yet there are many who think that it might be accomplished with relative suddenness. If it is, of course there is not anything that we can do. We simply could not get there. What we may have to decide is whether when the struggle becomes critical, we have got to intervene to prevent the collapse, but if it should occur, it seems to me the situation would be this:

That you would have Germany in control not only of France and Britain and of their navies but of practically the whole of Europe, with no possible restraining force behind them except Russia, and with the probability that she would not move out of her borders until attacked.

Mr. CORBETT. May I interrupt a minute? What about the restraining force of nationalities that feel that they have been unjustly treated by Germany, there is apt to be internal revolution, that is apt to be a very effective block or check to any possibility of an extensive war waged at a distant point?



Dr. FLEMING. It might be, it is true, but I think that we would find out that it is not a practical thing for subject peoples to revolt against modern machine guns and bombs. We have been saying that the Germans and Italians ought to revolt but they do not and the millions of people who are terribly bitter about those regimes are not going to revolt. There just is not the faintest possibility that they will until perhaps the close of a conflict in which Germany or Italy is engaged, and I think that that goes for the Czechs and for all of the other people that may be conquered. Those people are simply not able to revolt.

I would like to make this point clear, too, in connection with what the situation would be if France and England go under, for automatically with that the Germans and Italians would take over the French and British colonial empires, in every part of the world, that is, unless we stepped in immediately and began to grab right and left to get parts of the British and French empires and keep them out of the hands of the Germans and Italians, and I think that that is not at all farfetched as a possibility; we might have to decide overnight that we would be moving in and occupying territories, particularly in the West Indies—perhaps Greenland—just as the Nazis and the Fascists would be doing; but if we did not do that—and even if we did in this hemisphere, the Italians and the Germans would automatically come into control of the West Coast of Africa, they would be then less than 1,800 miles away from Brazil—the shortest hop there is across the ocean. They would be far closer than we would be to South America, with submarine bases, with aircraft stations, with naval bases, so that they would be in a better position to exert their military power in South America than we would.

Mr. KEE. I would like to ask a question. You are familiar, of course, with the proposals that are before this committee, and do you think that there is any one particular proposal before this committee that could meet the situation as you would have us meet it, that is, do you think that we have any proposal before us now, the adoption of which would place the country in the position that you would have us take at the present time and under present circumstances?

Dr. FLEMING. I did not come before the committee to advocate any particular proposal. Either the Thomas proposal, or the cash-and-carry proposal, or even the outright repeal of the neutrality laws—that is not my primary idea. It seems to me that we must decide upon a program of positive action, to deal with the swiftly moving situation. As between the measures that are advanced, it does seem to me that the Thomas proposal is the most practicable, but I know that many gentlemen, perhaps some here, do not believe that.

Mr. KEE. You would have that proposal, if adopted, adopted solely as a single resolution, or enactment, or fixed or tacked onto the present Neutrality Act? You know it is proposed as an amendment to the present Neutrality Act.

Dr. FLEMING. I would assume that that would be an amendment to the present act.

Mr. KEE. But you would have some parts of the present act repealed, I take it from what you have already stated.

Dr. FLEMING. Yes; I think that certainly the sections which leave us bound between Japan, and differently from Great Britain and France, should be repealed.

I quite agree that the cash-and-carry proposal would be of benefit so far as the European situation goes, but it seems to me it is not a reasonable thought to leave out half of our world problem.

Mr. KEE. The enactment of the Thomas resolution would enable us to take immediate action with reference to Japan.

Dr. FLEMING. I am not a technical lawyer; I do not know whether the legal disabilities would be removed or not. It does seem to me that as a policy, it would permit distinctly more flexibility, and the exercise of greater judgment and discretion as to what we ought to do.

Mr. KEE. That is all.

Mr. BLOOM. Any further questions?

We thank you very much, Professor Fleming, for coming before the committee, and giving us the benefit of your knowledge with reference to this matter, and we all know that you have made quite a study of it and we appreciate your coming.

The committee will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 12:30 p. m., the committee adjourned until 10 o'clock, tomorrow, Friday, April 28, 1939.)

## AMERICAN NEUTRALITY POLICY

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FRIDAY, APRIL 28, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10:30 a. m., Hon. Sol Bloom (acting chairman) presiding, for further consideration of bills to amend the Neutrality Act.

Mr. BLOOM. The committee will kindly come to order. Dr. Brunauer, associate in international education of the American Association of University Women, will continue her statement, which was begun on Friday of last week, April 21.

### STATEMENT OF DR. ESTHER CAUKIN BRUNAUER, ASSOCIATE IN INTERNATIONAL EDUCATION OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN—Resumed

Dr. Brunauer, will you kindly continue your statement where you left off?

Dr. BRUNAUER. I believe we left off in the middle of a question that Mr. Shanley was asking. I had finished my prepared statement and discussed one or two points with Mr. Corbett, and then Mr. Shanley had raised a question about the repudiation of treaties.

Mr. SHANLEY. It was on the open-door policy. You have heard of Prof. Samuel Beemis. He is a recognized authority in diplomacy, is that not so?

Dr. BRUNAUER. Yes.

Mr. SHANLEY. Is he not one of the outstanding scholars in the diplomatic field?

Dr. BRUNAUER. Yes, sir.

Mr. SHANLEY. He gives a summary at the conclusion of his book on diplomatic background of the United States in which he goes back into all of these far eastern relations, and states that the first Portsmouth treaty was a blunder, that the Manchurian effort was a mistake, and then he said, in so many words, that the open-door policy was wholly a mistake, that all it did was open the door for the British and we gained nothing from it. What do you think of that?

Dr. BRUNAUER. I would say, first of all, Mr. Shanley, that one can compare authorities in this field and come out with quite different results. Professor Bemis is an authority, and he is well recognized, but there are other authorities in the field who have a rather different point of view. I am not a professional authority on far eastern history or on far eastern politics. I have, however, studied the political and diplomatic history of the Far East, under a professor who is not by any means known as a great partisan of the Chinese.

He is rather sympathetic to Japan, if anything, and inclined to be rather critical of the American policy in the Far East, but his conclusion is quite different from that of Professor Bemis as to the effect and force of the open-door policy. Until Japan entered Manchuria and began to close the door there was not any great dissatisfaction with this policy. The difficulties that American businessmen may have had in the Far East have come from a number of sources, one of which, undoubtedly, was the preponderant influence of the British in certain areas, another of which was the influence of the Japanese in certain areas. The policy of the open door was an attempt to allow a certain freedom for economic adjustments and for the development of economic interests on the part of those countries that had no interest in territorial gains or in any actual political influence. I think, however, one would have to confer with other authorities before accepting Professor Bemis' view on this as absolutely final. I am quite glad to go on with the study and look it up further and try to discuss it further with you, or I shall be very glad to send in a memorandum.

Mr. SHANLEY. If you could do that I would appreciate it.

Dr. BRUNAUER. I am not enough of an authority on the Far East to say dogmatically whether Professor Bemis is or is not correct.

Mr. SHANLEY. You haven't any view on the Root-Takahara and the Taft-Katara agreements that have been repealed, and by implication given the Japanese the right because of propinquity in China? You are not conversant with those agreements, are you?

Dr. BRANAUER. I am not sufficiently acquainted with them to give an authoritative statement on them, or one of authoritative value.

Mr. SHANLEY. Professor Griswold, who has just written a book on the Far East also makes a statement that in half a century of dealing with the Far East and with the so-called territorial integrity of China, the last expression of which he stated did not come into effect until after the Boxer war in Kwangtung, Hunan, and the other provinces, when both the British, the French, and the Russians had just about carved out all that they wanted, that then only we had made none but a feeble protest in this, because it did not concern our vital interests. I will admit he is impressed with the Japanese side because he thinks the trade possibilities there are much greater. This article he wrote in 1938, and his comment on the open-door policy came out months ago. Whether it has changed or not because of the policy of the United States, I do not know.

Dr. BRUNAUER. Of course the policy of the United States in the Far East has undergone some changes from time to time, as the policies of any countries have, but since the World War we have been friendly, and certainly encouraging to a Japanese Government that was willing to maintain and respect general international agreements. There was, as a matter of fact, a fear that what actually finally happened would happen, namely, that whatever liberal elements were left in Japan would be overthrown. That was one of the things that restrained the United States Government in 1931 and 1932 from being much more forceful on the subject of Manchuria than it was. Many responsible Americans who are today discussing the far eastern situation in the light of the war in China, think that the United States could be friendly toward a Japan that would be willing to maintain its international agreements and utilize nonviolent methods of achieving

certain ambitions—a Japan that would be willing to negotiate and also willing to recognize the right of China to ultimate independence and stability.

Mr. SHANLEY. One more question. Professor Griswold also makes the statement that their acquiring of Manchuria is the effort of the Japanese objective to obtain a self-supporting nation, and that no matter what they do in China, eventually they are going to wind up as losers. In other words, it is the experience over a period of years that, with the exception of the Dutch, no nation has been able to control by force any colony or any conquest. Now, he further says that it is his belief that no matter how far Japan goes into China, that they cannot conquer, that they will not be self-supporting.

Dr. BRUNAUER. It may take generations to achieve that. I know the argument is put forward on the basis of the history of China, that the conquerors have always been absorbed. In the meantime, however, the conquerors have ruled China. For example, the Manchus were conquerors who ruled for hundreds of years in China.

Mr. SHANLEY. You think that the Japanese are still the most militaristic nation in the world with the dominant or ruling party still in control?

Dr. BRUNAUER. I would say that today Japan is one of the most militaristic nations in the world, and that they have cast aside any thought of accomplishing or trying to accomplish anything by non-military means for the time being.

Mr. SHANLEY. It is my opinion, from my study of it, that the efforts of men like Takahara and men who believe in peaceable efforts, that those men have been completely blotted out of the picture in Japan, and the idea of the Japanese has been to be a warring nation, and anyone who adheres to a different belief is a traitor.

Dr. BRUNAUER. Yes; I think we have to remember that during the period when the men who were more interested in what we might call civil and political life were in control, when Japan was observing its treaties and particularly its agreement under the naval treaties of 1922 and 1930 Japan was actually more secure than it is today within its own territory. It was less in danger than it is now.

Mr. SCHIFFLER. Doctor, I assume that you have made a study of the various resolutions and bills pending both in the House and in the Senate in respect to neutrality?

Dr. BRUNAUER. Yes, sir.

Mr. SCHIFFLER. And what is your opinion as to the efficacy of the Nye-Bonie-Clark bill as giving to us remedies, as far as possible, toward attaining a position of neutrality?

Dr. BRUNAUER. If the United States should adopt that amendment to the Neutrality Act at the present time, it would demonstrate an even greater indifference to what goes on in the world. This amendment would produce a very profoundly damaging psychological effect and would simply encourage the governments that look forward to changing the map of the world by force. Moreover, I do not believe, on the basis of my study of the way the United States got into the World War, that clamping down on the sale of munitions at all times would be the magic formula to solve the neutrality problem of the United States.

We have all tended to assume in the last several years—a theory which was popularized by the Nye munitions investigations—that

the main reason why the United States went into the World War was that the munitions makers and bankers had such a deep interest in the cause of the Allies that they forced the United States into the war ultimately. Of course, there is a great deal actually in the history of those years from 1914 to 1917, when you go back and study them, to make one realize that that was only a small part of the picture. To begin with, the bankers and the munitions makers accounted for only a small part of all the economic connections that the United States had with the war situation.

MR. BLOOM. Where do you get that information, from Hitler's speech which was made this morning?

DR. BRUNAUER. No, indeed.

MR. BLOOM. Did you hear Hitler?

DR. BRUNAUER. Yes, sir; I did. I rose at 5:30 to hear him.

MR. BLOOM. You rose at 5:30 to hear him?

DR. BRUNAUER. Yes, sir.

MR. BLOOM. Well, is that not substantially what Hitler said this morning?

DR. BRUNAUER. That the munitions makers did not cause the war?

MR. BLOOM. It was practically the same idea as to how we got into the war.

DR. BRUNAUER. No, sir; my idea is different from Hitler's. I suspect that I have probably studied both German and American documents, from a historical point of view, more than Mr. Hitler has.

MR. BLOOM. There is no question about that in my mind.

MR. SCHIFFLER. If the profits were eliminated from war insofar as munitions makers were concerned, and if it were provided that any possible profits could be absorbed by the Government to assist in paying the costs of such a war, do you think that would change the trend of things?

DR. BRUNAUER. No; particularly not at the present time. I would say, however, that in a world situation in which you have an effort on all sides to dismantle the war machine, such a regulation would be very useful. It would then be just one more practical measure to prevent those people who might have a special interest in war from stirring up a war spirit. There is a strong tendency to assume that the whole cause of any war or any disagreement in which the United States might be engaged is on the American side. Many people take the attitude that the President of the United States is now the war maker and that the President of the United States was the war maker in 1917. As far as 1917 is concerned, we have rather forgotten that Germany did a great many things to bring the United States into the war, and to create a situation in which it was next to impossible for the United States to refuse to go to war. It certainly was not the American Government that started the recent race to rearm on the theory that the only way to accomplish international purposes was by the use of force. That has developed as the result of the triumph of a fanatical movement in Germany. One can very clearly trace the intensification of this renewed reliance on force from the moment when Hitler became chancellor in 1933. Up to that time, even Mussolini realized that the prevailing sentiment in Europe was for peace, and that he had better try to make his peace with the rest of Europe. As we know, in the Disarmament Conference he always spoke very strongly for reduction of armaments, and always led the way for peaceable arrangements. After Hitler came into power, and

withdrew from the Disarmament Conference and the League of Nations there has been a steady breaking down in Europe of respect for and confidence in any methods of obtaining objectives except force.

Up to last September the governments of the western powers still had some faith in methods of conference and diplomatic methods for solving the problems of central Europe and eastern Europe. They went as far as they did in the Munich Pact and in the Committee for Nonintervention in Spain on the theory that concessions would prevent war. Within a few months, Hitler tore up the Munich Pact, and now declines to use the methods of conference. We have to realize that we are faced today with a revival of lawlessness and violence that we all thought was buried generations or even centuries ago.

As far as the United States is concerned, we do not want to meet force with force. Force is not, certainly, what we believe in and not what most of the people believe in, in Europe. It would be a simple thing to say let us just meet force with force. It is also a simple thing to say just let us ignore it, and pretend it is not there, it does not exist. It is a very much more difficult thing to try to work out this problem by developing ways to meet force with reason, and it takes the very best efforts of all of us.

We all agree that we do not want war. I cannot claim to be an ex-service man or a potential soldier, but I am a wife and a mother, and I have a very definite, personal interest in trying to prevent war. I think we would be leaning on a very weak reed if we expected something like the Nye-Bone-Clark amendment to keep the United States neutral and preserve our security in the future.

MR. BLOOM. Mr. Schiffler, are there any further questions?

MR. SCHIFFLER. No, sir.

MR. BLOOM. Mr. Chipfield.

MR. CHIPFIELD. I did not have the pleasure of hearing your former testimony, Doctor, as I was unable to be here at that time. So, I really do not know your specific recommendations on this subject, but regardless of the various recommendations that have been presented to this committee, are we not overlooking our one best bet, and that is the determination of this Congress not to vote to get us into war? How can we get into war if this Congress, which has to vote to declare war, refuses to vote for war? Congress has the appropriating power. If this Congress is determined to stay out of war and will refuse to vote to get into war, then what difference does it make whether we have the Nye-Bone-Clark resolution, the Thomas-Geyer amendment, or neutrality legislation? If propaganda is going to influence Congress later on, if war should break out, to vote for war, will not the same propaganda have the same effect whether there is any neutrality legislation or not? Are we not relying on the common sense of this Congress not to vote for war under any circumstances except, say in self-defense?

DR. BRUNAUER. At the moment I do not feel that the question, insofar as the United States is concerned, is whether we vote to go to war. There is no doubt that very few people want the United States to go to war at present. If Congress, for the moment, should drop all neutrality legislation and take a vote saying we are not going to war, it would simply be a confirmation of the obvious fact that the United States is not going to war.

Mr. CHIPERFIELD. Is not that all that is necessary?

Dr. BRUNAUER. I do not think it is all that is necessary.

Mr. CHIPERFIELD. I do not mean that they take a vote today. But if Congress has that determination, what difference does it make as far as neutrality legislation is concerned? If we do not vote to get into war we can never get into war.

Dr. BRUNAUER. I wish I believed that that was absolutely true in the long run. If you believe that the vote of Congress never to go to war would induce all of the other countries in the world never to do anything that would endanger the United States in the future, your proposal would be efficacious.

Mr. CHIPERFIELD. Is it not a question as to whether the same thing that would prevent them from doing such things out whether it would not prevent us from going into war?

Dr. BRUNAUER. Neutrality legislation is rather awkwardly named. What we mean by a neutrality law is a law to govern the behavior of the United States during periods when it is a neutral country; that is, a nonbelligerent. Of course, that whole thing can be broken off by the declaration of war. If the United States becomes a belligerent, then the United States is no longer neutral.

Now, as to whether or not any neutrality legislation can help to prevent us from going to war, it is rather difficult to say. Nor can we assess the exact degree to which different kinds of legislation might accomplish this purpose. I do think, however, that if the United States does not change its present neutrality legislation in the direction of assuming a greater degree of responsibility for the observance of international law and order in the world, if it does not do that, it will encourage the forces abroad that are likely to make war and ultimately endanger the peace of the United States. The principles of the Thomas-Geyer resolution would permit the Congress and the President to make a distinction in trade between the country that goes to war in violation of a treaty with the United States and the countries that are attacked by such a state. That principle, I believe, in the first place, would act as a deterrent to the outbreak of war in Europe. Of course, the situation has gone very far, but it is not yet beyond hope. It is not as good as it was a couple of years ago, but there is still some hope. I believe it would help the United States considerably. It does no good to fulminate against the tendency of the American people to be interested in what goes on in the rest of the world. We are interested, and our whole condition of life makes us more interested as time goes on. If war should break out in Europe, particularly when we see the damage and the destruction that occurs, there is bound to be a clamor to do something. If we are already in a position to impose trade embargoes, I do feel that that would postpone an actual declaration of war, because it would make the American people feel that they were doing something about the situation, and they would not come to the point of thinking that military activity was the only alternative.

Mr. CHIPERFIELD. The only point I wished to make was simply this: I am vitally interested, and I feel that the determination of Congress not to vote to go into war is a much stronger factor in keeping us out of war than all the neutrality legislation we can pass.

Dr. BRUNAUER. I do not think it would be, because I think if the Congress should do that it would only hasten the outbreak of war in



Europe, and that would, in turn, only hasten the day when we would have a war problem on our own heads.

Mr. VORYS. Mr. Chairman.

Mr. BLOOM. Mr. Vorys.

Mr. VORYS. Doctor, you stated that you are in favor of the Thomas-Geyer resolution.

Dr. BRUNAUER. Yes, sir.

Mr. VORYS. Now, it provides only for action in case there is a finding that a nation had gone to war in violation of treaty with the United States.

Dr. BRUNAUER. Yes, sir.

Mr. VORYS. And that language, I take it, would mean that the war must violate, must itself be a violation of the treaty, which would mean that the treaty must be a treaty wherein that government agreed not to go to war?

Dr. BRUNAUER. Yes, sir.

Mr. VORYS. Is there any other treaty to which we are signatory that has any such provisions in it except the Kellogg-Briand Pact?

Dr. BRUNAUER. Yes; I would include any treaty which provides for consultation among the powers whenever their interests were involved. If one of the signatories to such a treaty instead of using the method which was set up in the treaty resorts to force and the use of war, I think that would be a violation. We have two kinds of treaties; the one that is more universally used is the Briand-Kellogg Pact, and then there is also the Nine Power Pact.

Mr. VORYS. The Nine Power Pact, of course, does not, as I remember it, have any specific provision against going to war.

Dr. BRUNAUER. No; but it does have a provision for consultation. Moreover, the treaty is based upon the principle that the situation in China is of interest to all of the nine signatories, and, consequently, any one country which would assume that the other eight signatories had no interest in the subject of this Nine Power Treaty, and went ahead on its own by military means, would be considered to have made war in violation of the treaty.

Mr. VORYS. Do you not think that would rather be stretching the point a little bit, that is, if you go to war in violation of a treaty? Now, in ordinary parlance, the only way you can violate a treaty by going to war is to violate a treaty in which you promise not to go to war.

Dr. BRUNAUER. No; I do not think so. After all, you have certain methods for accomplishing certain things, and if you go to war as one of those methods when the whole purpose of the treaty is to do something else, I should think it could be considered as a violation of the treaty. Let us take, for example, the treaties with Latin-American countries in which we promise to consult in case of a threat to the peace of the Americas. If the United States, after signing the treaty in which it agreed that the maintenance of peace in the Western Hemisphere is a matter of concern to all of the American republics and promised, therefore, always to consult the other American republics when a threat to peace arose, should proceed to make war on Mexico, let us say, that would certainly be a violation of our treaty with the other American republics.

Mr. VORYS. Now, if you are correct in your interpretation of the Geyer-Thomas bill, then there is not a country in the world with which we do not have some sort of a treaty of peace.

Dr. BRUNAUER. Practically not.

Mr. VORYS. Or amity and friendship?

Dr. BRUNAUER. Practically not.

Mr. VORYS. And, therefore, when any country goes to war we could, following your interpretation of the law, find that that was a violation of a treaty with us, is that not right?

Dr. BRUNAUER. It seems to me that is the practical value of the proposed arrangement, that any country which would make war in violation of the Kellogg-Briand Pact would know in advance that it would be subject to the decision on the part of the United States that it had done so. Of course, there may be cases which would not be very clear and the United States, under this law, if the Thomas-Geyer resolution is adopted, is not forced every time war breaks out to make such a decision.

Mr. VORYS. The Thomas-Geyer amendment, then, in your view, simply provides that when any war breaks out on this planet, we cannot conceive of a war that might not be interpreted as a violation of some treaty to which we are signatory; is that right?

Dr. BRUNAUER. Well, that is true, though it is within the realm of possibility that a war could break out in such a way, that it would be difficult to decide whose fault it was, or who wanted whose territory. The matter might be so obscure that we could not decide which side had violated the treaty.

Mr. VORYS. You did not understand my question?

Dr. BRUNAUER. It is universal; yes.

Mr. VORYS. It is universal?

Dr. BRUNAUER. Yes; that is true; I agree with that.

Mr. VORYS. Then after war breaks out the President and Congress decide which one, in their judgment, was wrong, and then they take steps to embargo against the one that they think was wrong and let the other fellow have whatever he can get? That is the way it works?

Dr. BRUNAUER. It does work that way. One point that should be noted is that the resolution does say "to exempt in whole or in part," so that it would be possible for Congress and the President to regulate that trade with what we might call the victim on such a basis that it would not involve any danger to the United States. The Thomas-Geyer resolution does not require full trade even with the victim nation.

Mr. VORYS. The other one is closed down in effect. Then it leaves to the President the power, if he feels that one side is not wholly to blame, and so forth, or if the one we are favoring is a little bit wrong, to cut off a little bit of this and that, does it not?

Dr. BRUNAUER. I will come back to that, but I want first to recall that the Kellogg-Briand Pact does contain some rather specific undertakings, so that it would not be purely a matter of the United States Congress and the President deciding who started the war. The treaty has two sections. In the first, the nations renounced war as an instrument of national policy, and in the second they undertook never to seek solution of their disputes except by peaceable means.

Coming back to the question of the authority given to the President to change, modify, or revoke the proclamation, I believe it is a point that could very well be improved upon. It is not clear enough, and it is not specific enough. It is too uncertain just what the powers of the President are in the situation, and under what conditions he may change, revoke, or modify the proclamation.

Mr. VORYS. Is this not true that, under your interpretation of the Thomas-Geyer law, we have nothing more than we have without the law? That is, without the Thomas-Geyer law and without any neutrality legislation of any kind?

Dr. BRUNAUER. Yes.

Mr. VORYS. The President and the Congress could, in the case of any war on this planet, determine that there ought to be an embargo against one side and maybe a limited embargo against the other, and, therefore, this is wholly a gesture. It is simply a rather roundabout way of writing down on paper just exactly the powers of Congress and the President at the present time?

Dr. BRUNAUER. I think it is somewhat more than that. As far as the legal power of the Congress and the President to act as the Thomas-Geyer resolution outlines is concerned, that is absolutely so. There are, however, advantages to adopting such an arrangement ahead of time, and announcing to the world that this is the way we intend to proceed. One of the advantages is that it gives notice at a time when the war still has not broken out, that this is probably what the United States is going to do in case of a major crisis and, therefore, it might act as a deterrent to a country that is contemplating war. That is one point. The other one is this: If the United States would pass such a law, particularly in reference to Europe, at a time when war was going on, and then decided to put on a trade embargo, it would be considered a much more unfriendly act and we would be endangering our own relations very much more than if we act on general principle.

Mr. BLOOM. Are there any further questions?

Mr. SHANLEY. Yes, Mr. Chairman.

Mr. BLOOM. Mr. Shanley.

Mr. SHANLEY. Suppose that amendment takes effect, and we decide that country A has violated its treaty. Country A says that on the very date that you enacted that legislation we assumed that that was adding a penalty to our treaty and, as such, we repudiate that treaty, and they say that treaty is no longer in existence; what will be done then?

Dr. BRUNAUER. Well, I would say from past experience and the history of diplomacy that while one signatory can repudiate a treaty, other signatories can refuse to recognize the repudiation. If the consequences of repudiation are serious enough, any other signatory to that treaty can consider it an unfriendly act. There are all sorts of things you can do when you consider something an unfriendly act. In the case of Manchuria the United States considered what Japan had done an unfriendly act, and decided on the nonrecognition of territorial acquisitions. Moreover, even if there were no treaty, the United States could decide that the making of a major war in some other part of the world was a direct threat to her interests, and such an important threat that we could consider it an unfriendly act, but not so unfriendly that we would want to declare war, but do something milder than that. Under the Thomas-Geyer resolution, we are

attempting to set up some objective criterion which leaves less opportunity for individual judgment.

Mr. SHANLEY. Are you saying that the denunciation of a treaty could be considered by us as an unfriendly act?

Dr. BRUNAUER. Certain treaties have provision for denunciation or termination in them.

Mr. SHANLEY. Those are mostly commercial or political treaties?

Dr. BRUNAUER. Some political treaties have. Treaties of alliance usually have such provisions. The Kellogg-Briand Treaty has no such provision in it, so, it would be assumed, to begin with, that it was intended to be a permanent arrangement if no provision was made therein for denunciation. Any sovereign nation signatory to a treaty is within its rights in repudiating a treaty, and the other signatories to a treaty have the right to consider that repudiation an unfriendly act.

Mr. SHANLEY. Have they ever done it?

Dr. BRUNAUER. Yes; certainly they have. I can cite some cases in European history where the repudiation of alliances was certainly considered unfriendly.

Mr. SHANLEY. And they went to war over them?

Dr. BRUNAUER. No, not necessarily.

Mr. SHANLEY. If I do not like something and I express it as being an unfriendly act, that is an expression of such significance in international law that it is almost tantamount to saying—it is more than high dudgeon, diplomatic dudgeon—it is almost tantamount to saying that it is an act of war.

Dr. BRUNAUER. Of course, there are gradations of that. What we are trying to do here is develop gradation and possibilities short of war for operating in the international sphere. We are trying by this means, in a sense, to pull the world up by its own boot straps. If we do not make a beginning somewhere, even though it is a feeble effort, we might just as well resign ourselves to the permanence of war in the world. Attempts have been made through the setting up of elaborate institutions, and attempts have been made through certain kinds of treaties, to develop methods short of war for handling international conflicts.

Mr. SHANLEY. Do you think Japan is still a signatory to the Kellogg-Briand Pact?

Dr. BRUNAUER. It is, so far as I know.

Mr. SHANLEY. She still considers her war is a war of self-defense?

Dr. BRUNAUER. No, it is not considered a war at all. It is an incident.

Mr. SHANLEY. How about the Nine Power Pact?

Dr. BRUNAUER. Japan says the Nine Power Pact is no longer in force.

Mr. SHANLEY. Treaties are multilateral or bilateral. Just because we are going to observe a treaty does not mean that the others are going to observe it indefinitely. They must have a right to denounce treaties.

Dr. BRUNAUER. They have a right to denounce treaties, under the methods set up by international law. If they choose the more violent methods of doing it, then they must be prepared to suffer the consequences.

Mr. SHANLEY. Would you say that section 3 (a) of the Thomas Act is simply an amendment of every treaty? It is a declaration of policy

that hereafter, and ex post facto too, for all treaties here and before made, the United States says that the signatories have no right to denounce a treaty, and if they do denounce treaties they must suffer the consequences?

Dr. BRUNAUER. If they go to war in violation of a treaty.

Mr. SHANLEY. That is different, to engage in war.

Dr. BRUNAUER. Yes; to engage in war, but if they were to say this treaty is very unfair, let us see if we cannot negotiate about it and get a different arrangement, the United States would not answer it with a trade embargo-----

Mr. SHANLEY. We have the Kellogg-Briand pact, and hereafter we put all the world on notice that in every one of those treaties we will punish the engagement in war by an economic embargo.

Mr. JOHNSON. I think you probably did not state just what you intended to say, but go ahead.

Dr. BRUNAUER. We say we will not aid the country that goes to war in violation of a treaty with the United States by providing it with the sinews of war.

Mr. SHANLEY. That is an avowal of the treaty itself-----

Dr. BRUNAUER (interposing). We have to get the point of view that international law itself has come to mean something. If we took the view that because a law is violated it does not exist, we would never be able to get anywhere. Of course, international law is still in a much more rudimentary state than internal law. Internal law used to be in a rudimentary state too, but gradually by means of enforcement, it came to mean something as the years went on. In the case of international law it must come to mean something in the same manner. At the present moment it would have a tremendous psychological and moral effect if the United States, one of the greatest powers in the world, would say that from now on we consider that any country that goes to war in violation of a treaty with the United States forfeits the right to obtain supplies for that war from this country. It would be a tremendous advance, and what we are trying to do is to go beyond what has been done before, because if we do not we are probably all of us going down to destruction.

Mr. SHANLEY. Suppose immediately after the enunciation of this doctrine the signatories say they have the right to withdraw, and we broke our treaties, what are you going to do then? Suppose the day after this is instituted all of the so-called totalitarian states say that the enactment of the Thomas amendment is a violation of the treaties, and we repudiate those treaties, what are you going to do then? Undoubtedly they will do that. Or, let us assume that they do, what are you going to do if Germany, Japan, and Italy immediately after the enactment of the Thomas amendment immediately repudiate all treaties and say we are no longer parties to those treaties?

Dr. BRUNAUER. I believe quite firmly that if they realize that the United States is vitally concerned about keeping peace in observance of treaties, they are not going to rush into a situation where they put themselves in the wrong. Do you not see that immediately those totalitarian states would put themselves tremendously in the wrong if they would turn around and revoke their treaties?

Mr. JOHNSON. As I understand your position, and that of those who sponsor the Thomas resolution it is this, that the Government of the United States has the inherent authority at any time that it

desires, with treaty or without treaty to embargo the shipment of goods to any country. They can trade or not trade with any country whether they want to or not, and we are authorized to do that, treaty or no treaty. The Government in passing this resolution merely gives notice to the world that it reserves the right if that treaty is violated, upon concurrence of the President or the action of Congress, to say that we are outraged at your action, we will trade with you no longer. Is that the philosophy of it?

Dr. BRUNAUER. Yes; I believe that is the philosophy of it, and the philosophy beyond that is that we should use this inherent power to avoid positive danger.

Mr. JOHNSON. This is merely giving notice of what we might do under certain circumstances?

Dr. BRUNAUER. Yes; giving notice in order to help preserve peace if it is possible to do so.

Mr. KEE. Mr. Chairman.

Mr. BLOOM. Mr. Kee.

Mr. KEE. Returning to the line of discussion started by Mr. Shanley, do you see any difference in principle between the Thomas-Geyer proposal now before us and the Johnson Act, by which we said to the nations of the world, after we had loaned them money, and they had given to us their contracts which have all of the force and effect of a treaty, and a treaty is nothing more than a contract, that they would repay that loan?

Dr. BRUNAUER. No.

Mr. KEE. We passed the Johnson Act by which we said to all nations of the world, "If you do not repay us these loans, with which we have accommodated you, we will not loan you any more money."

Dr. BRUNAUER. Yes.

Mr. KEE. Now, we added a penalty there, and it did not cause any nations throughout the world to repudiate their contracts any more than they had repudiated them.

Dr. BRUNAUER. I had never thought of it in that connection, but I think it is very accurate and very sound.

Mr. KEE. And in the Thomas-Geyer Act we are simply laying down the simple proposition that if you violate a contract which you have heretofore made with us, why, we will sell you no goods. We will furnish you no munitions of war. Do you see any definite difference between the two?

Dr. BRUNAUER. No; in principle they are similar. This simply carries it one step further.

Mr. VORYS. Doctor, if the Thomas-Geyer amendment became the law and we declared under it an embargo against a nation, that nation would consider such an unfriendly act, would it not?

Dr. BRUNAUER. It might, but the question is what would happen if they did consider it an unfriendly act, whether they would think it necessary to add to their enemies or not.

Mr. VORYS. If they considered it an unfriendly act?

Dr. BRUNAUER. They might, and then again they might not.

Mr. VORYS. But it would be, technically, an unfriendly act?

Dr. BRUNAUER. They could consider it such; yes.

Mr. VORYS. I think when you were here before I asked you your views on an embargo against Japan?

Dr. BRUNAUER. Yes; we discussed that.

Mr. VORYS. Of course, if we took action in the case of Japan, or against Japan, it would be after war is started?

Dr. BRUNAUER. Yes; that is true.

Mr. VORYS. And, therefore, whatever we do now is changing the rules of the game after they have started their war, so that if we proceed with an embargo against Japan, either directly by simply passing a legislative embargo, or by enacting the Thomas-Geyer<sup>1</sup> amendment, and then a few weeks later proceed under it, in either case it would be considered technically an unfriendly act, would it not?

Dr. BRUNAUER. I suppose it would be.

Mr. VORYS. Yet that is about the most effective place for us to enact such an act?

Dr. BRUNAUER. Just their considering it an unfriendly act does not affect the United States particularly.

Mr. VORYS. My point is this: If we were to have an embargo against Japan it would only be after we had actually proceeded with an embargo that the other nations of the world would believe that we meant business by our policy.

Dr. BRUNAUER. Yes.

Mr. VORYS. Whether we simply proceeded with an embargo against Japan now or went through the motions of enacting the Thomas-Geyer resolution and then have an embargo, in either case the Japanese could raise the same cry, that what we were doing was an unfriendly act.

Dr. BRUNAUER. But, what of it? I am asking what is the next step after that? Their simply saying it is an unfriendly act does not affect us or does not necessarily involve war.

Mr. VORYS. I agree with you.

Dr. BRUNAUER. Nor does it necessarily involve any more disability or any more danger to American interests than is already in existence by the advance of Japan in China and by their attempting to repudiate the Open Door.

Mr. VORYS. You do not think that Japan would declare war on us if we declared an embargo, do you?

Dr. BRUNAUER. No; I do not think so. Sometimes, soldiers in the old feudal style do show a fine disregard of consequences, but I think that even the Japanese generals are very likely to think twice before they bring the tremendous power of the United States against them. They would undoubtedly have a good deal to say about it, but whether they would deliberately try to multiply their problems is a very great question in my mind.

Mr. BLOOM. Mr. Richards.

Mr. RICHARDS. Following up the line of questions propounded by Mr. Shanley and Mr. Kee about treaties and contracts, like Mr. Kee mentioned, there is a vast difference between a contract and a treaty, is there not, when it comes to a matter of denunciation or renouncing it?

Dr. BRUNAUER. It is a question of degree. Treaties are contracts; they are political contracts, if you like.

Mr. RICHARDS. But does not the treaty itself provide for the denunciation of the treaty?

Dr. BRUNAUER. Not always.

Mr. RICHARDS. That is, international law does provide for denunciation of a treaty?

<sup>1</sup> See p. 622.

Dr. BRUNAUER. Yes; in practice treaties are denounced, due to change of conditions. If it is a serious enough situation the other signatories will either try to negotiate anew, or will react in a hostile way, even going to the point of war.

Mr. RICHARDS. But in the instance of a financial contract between the United States and either England or France, which Judge Kee gave, there is no provision in that contract, under any circumstances, for either one of the parties to the contract to abrogate its terms?

Dr. BRUNAUER. I do not think there is, but I think it is a question of degree.

Mr. RICHARDS. If I give you a note saying I owe you \$1,000, there is no way I can legitimately and legally say later on that I do not owe you that \$1,000 if it is not provided in the note that I may do that?

Dr. BRUNAUER. I think not, but I still come back to the proposition that treaties are political contracts and they carry with them political—I do not like to use the word sanctions, but it is true that they carry with them political sanctions or consequences.

Mr. RICHARDS. But you will agree that there is a big difference between a treaty and a financial contract between the United States and England or France?

Dr. BRUNAUER. As international agreements they differ in degree, and the difference in degree is the result of custom and practice.

Mr. BLOOM. A treaty is the supreme law of the land, is it not?

Dr. BRUNAUER. Yes.

Mr. BLOOM. That is, I believe the Constitution says that.

Mr. SHANLEY. Treaties in the past have been terminated, and in some instances they have been the subject of war or the subject of just oral denunciation, have they not?

Dr. BRUNAUER. Yes.

Mr. SHANLEY. And that is about the answer, when the so-called treaties are violated, it means war?

Dr. BRUNAUER. There are other answers such as breaking off diplomatic relations, and various types of diplomatic reprisal, and acceleration of armament. There can be a great many different responses.

Mr. SHANLEY. But they are more or less tending toward war, like preparations for war?

Dr. BRUNAUER. A threat of war may be involved.

Mr. SHANLEY. Instead of the Thomas amendment could we simply say "Whenever the President shall find that a nation is engaged in war in violation of our high principles," because the treaty is only a subterfuge, and why do we not face the facts and issues right there?

Dr. BRUNAUER. I do not think it is a subterfuge, Mr. Shanley. I think it is necessary to attempt to set up a criterion. I think this is an attempt to set up something that goes a little beyond the practice of the moment. It is an attempt to develop respect for law and order. I think it would have a moral value and a value in the direction of increasing respect for treaties if the United States would have such high regard for treaties and set such great store by its treaties that it would seek to have their provisions observed. Your proposal would have some utility too, but in the long run it is going to count for a great deal more if what we do is based upon observance of treaties. I do not consider it just a subterfuge at all.

Mr. SHANLEY. It was put into every treaty signed in the past, but I do think if the issue were tried so that the American people could get



this in its true significance that the advance would be far more noteworthy and the issue could be met now or never. Either we should put this into all treaties or we want to say to all nations we have had treaties with or from now on you must accept this 3 (a) amendment to that treaty, repudiate it, and forget it, and come to the issue right now, which is sanctions.

Dr. BRUNAUER. In a sense, that is what President Roosevelt proposed in his message to Hitler and Mussolini, saying that we are going to try to accomplish a new order in the world, and in exchange for promises of nonaggression we will set about trying to solve other problems.

Mr. SHANLEY. President Roosevelt is a realist. He meets the issue, and may I say from my own personal viewpoint, he has always been out in front trying to lead us where he thinks is right, but he has always withdrawn when he felt that the American people were not with him. In the Chicago speech and in the speech after Munich he did so, and he has always tried to lead the American people, but he has never pushed them. For that I have the profoundest admiration and respect for him, and raising that issue shows his determination that sanctions must be employed if the peace of the world is going to be maintained. He has not ducked it.

Dr. BRUNAUER. No; I do not think it can be ducked; it must be faced.

Mr. BLOOM. You are very kind, Doctor, and we appreciate very much your being here again.

#### STATEMENT OF DR. HARRY F. WARD, NATIONAL CHAIRMAN, AMERICAN LEAGUE FOR DEMOCRACY, NEW YORK CITY

Mr. BLOOM. Dr. Harry Ward. Dr. Ward is from the American League for Peace and Democracy, New York City. You represent the American League for Peace and Democracy, do you?

Dr. WARD. Yes, sir.

Mr. BLOOM. Is there any other organization that you represent?

Dr. WARD. Only that.

Mr. BLOOM. Proceed, Doctor.

Dr. WARD. I am addressing you as the chairman of the American League for Peace and Democracy. The purpose of that organization is: To keep the United States out of war and help keep war out of the world; to protect and extend democratic rights for all sections of the American people. I am commissioned to bring to your attention that part of our program which deals with foreign policy and neutrality legislation. You should know that this program is the expression of many more people than the membership of the American League. It was adopted at the American Congress for Peace and Democracy, called by the American League for Peace and Democracy in Washington, D. C., January 6 to 8, 1939, after preliminary discussion among our members and further discussion in commissions and the program committee. It is, therefore, the voice of 7,836,691 people who, after duplications are excluded, compose the total membership of the 1,023 organizations which the 1,274 delegates at the Congress officially represented. These organizations are: Labor, Youth, Women, American League, Religious, Negro, Educational and Cultural, Farm, Professional, Peace and Anti-Fascist, Chinese

and China Aid, Spanish and Spanish Aid, Fraternal and Language, Civic, Civil Rights, Cooperatives and Political. It is, therefore, the voice of a typical cross-section of the American people that I am bringing to you.

Mr. ALLEN. Does that organization include anti-communistic groups?

Dr. WARD. No; only anti-Fascist.

Mr. BLOOM. You are a citizen of the United States?

Dr. WARD. Yes, sir.

Mr. ALLEN. The witness said a moment ago his organization represented a cross section of the Nation. Do you not think that in order to get a cross section of American national opinion some of the anti-communistic groups should be included?

Dr. WARD. I said cross section of the American people, not American opinion.

Mr. ALLEN. My question still holds.

Dr. WARD. These are that section of the American people who are for peace and democracy and, therefore, against war and fascism. Their objective is to establish peace and to maintain and extend democracy.

Mr. SHANLEY. Do you exclude communism advisedly therefore?

Dr. WARD. We have opened our membership to all citizens of the American Republic, excluding none who conform to our principles, who really observe them.

Mr. SHANLEY. This is the united front, in other words?

Dr. WARD. Yes.

Mr. BLOOM. You publish a magazine called The Fight.

Dr. WARD. That is a short name for it.

Mr. BLOOM. It is kind of short, but it means an awful lot.

Dr. WARD. The name of the magazine The Fight is an abbreviation.

Mr. JOHNSON. It is rather paradoxical for a peace organization to have a magazine called The Fight.

Dr. WARD. The Fight for Peace and Democracy is the title of it, and, incidentally, I am of the conviction—you see, the word "fight" is used in the sense that the churches are called militant. I do not think in the world we are living in today we are going to get anywhere without a militant struggle against the people who are seeking to destroy peace.

Mr. RICHARDS. What do you think about the Communists? Do they think they are in the fight for democracy?

Dr. WARD. My observation and experience is that the few Communists, the minority group that we have in our organization, have a sincere interest in the particular fight for peace and democracy. We check them on that practical point just like any other organization which might have any of those people in its membership.

Mr. FORD. Do their views and those in your organization coincide with our views on democracy in this country?

Dr. WARD. The only thing I have to go on there, Congressman, is the loyalty with which they endeavor to carry out our program, which is distinctly an American program and in harmony with our Constitution and Declaration of Independence.

Mr. BLOOM. Proceed, Doctor.

Dr. WARD. These people have said that they want a foreign policy based on;

- (a) The distinction between the aggressors and their victims.
- (b) The denial of our economic resources to the war-making, treaty-breaking aggressors.
- (c) The granting of our economic resources to victims of the aggressor nations under conditions designed to remove the risk of our being drawn into war.
- (d) The promotion of concerted action to withhold from invading aggressors the means to make war.

To implement this kind of policy in the situation now confronting us, these people ask you to place an embargo on all war supplies, loans, and credits to Germany, Italy, and Japan, and to replace the unneutral "Neutrality" Act with legislation which will immediately end all trade and financial transactions with a nation which invades another or otherwise attacks it with military force.

May I point out that these proposals are based on two self-evident propositions. One is that the program and purposes of the axis powers threaten peace and democracy everywhere in the world and also our own legitimate national self-interest. The other is that the economic power of the United States is the decisive factor in this situation as it was in the World War. We ask, therefore, that the economic weight of the United States be thrown against the aggression of Germany, Italy, and Japan, and on the side of their victims.

In simplest form, the issue of neutrality is the question to whom will we sell the means to make war—to everybody, to nobody, or not to the aggressor, and to his victim under certain regulations. The present law, forbidding sale to all belligerents, is based upon the part that our trade with the Allied Powers played in taking us into the World War. It is that kind of trade which the present Neutrality Act outlaws. Now we face a different situation. It is our trade with the people who are waging and planning war, and whom we will have to fight if we get into war, that needs to be stopped.

We are now in this absurd and dangerous position. We are arming at an unprecedented rate to meet the challenge of the Fascist powers whose armaments we have helped to build up and are still helping. History will discover the reasons for this contradiction but will find no excuse for it. I am sure you are familiar with the fact that we are supplying Japan with 54 percent of the materials she is using in her invasion of China, despite the fact that we are parties to a treaty which was supposed to guarantee the integrity and independence of China. The details of that were given you last week by Mrs. Fitch, and let me say I heartily endorse everything she said. I am sure you also realize that if Japan continues her career of aggression, she will take steps which the United States will not tolerate. What reason can be offered why we should continue to promote the suffering of China and the danger to ourselves that is involved? We ask you to end our partnership in Japanese aggression by an act which will embargo all war supplies, loans, and credits to that Government.

It is equally necessary to end our participation in the aggression of Hitler, against which we have more than once officially protested. In a series of articles in the Nation, beginning January 28, 1939, by Eliot Janeway, it is made clear that Hitler's program of conquest cannot succeed if the materials of war that we control are denied to him. He points out the extent to which we have contributed by our sales to the building up of the German air force. He declares that

orders for Hitler's war program are now being filled in this country to the extent of a million dollars worth of machine tools, one of our latest strip steel mills, one of our newest oil refineries and a processing plant that will enable Hitler to get 50 percent instead of 15 percent out of his low-grade, sandy-iron ore. We ask you why we should arm to meet the Nazi challenge, while we are helping to make that challenge effective. We ask you why we should spend time discussing the general principles to control our action when war comes without doing something to stop our present contribution to the inevitability of war through these war supplies we are now selling to the Fascist powers. Many people in this country are asking why we didn't stop all trade with Nazi Germany when Hitler invaded and took over Czechoslovakia. Those people are asking you now to immediately make it impossible for Hitler to use our resources and our labor to make possible his program of aggression and the destruction of democracy.

If you will now pass a short and simple piece of legislation to stop all war supplies, loans, and credits to Hitler from this country, the face of the world will be changed. The axis powers will know exactly where we stand in terms of action, which is the only language they understand. By such action, necessary for our own safety and self-interest, the forces in every land which really desire democracy and peace will be heartened, and strengthened in their resistance to aggression. Thank you.

Mr. BLOOM. Are there any questions?

Mr. VORYS. Yes; Mr. Chairman.

Mr. BLOOM. Mr. Vorys.

Mr. VORYS. What are the democracies throughout the world?

Dr. WARD. The democracies at present are those which carry on their government by means of freely elected parliamentary bodies.

Mr. BLOOM. Representative democracies?

Dr. WARD. Yes, sir.

Mr. FORD. What country were you born in, Doctor?

Dr. WARD. I was born in England.

Mr. BLOOM. Are there any further questions? Thank you very much, Dr. Ward, for appearing before the committee. We appreciate it very much.

Dr. WARD. Thank you.

**STATEMENT OF CLARK M. EICHELBERGER, CHAIRMAN, AMERICAN UNION FOR CONCERTED PEACE EFFORTS, AND DIRECTOR, LEAGUE OF NATIONS ASSOCIATION, NEW YORK CITY**

Mr. BLOOM. Mr. Eichelberger. Mr. Eichelberger is the chairman of the American Union for Concerted Peace Efforts, 8 West Fortieth Street, New York City. Do you appear here representing this association today, Mr. Eichelberger?

Mr. EICHELBERGER. Yes, sir. Shall I explain about it?

Mr. BLOOM. Please do.

Mr. EICHELBERGER. Some time ago a group of us who happened to be heads of organizations which stand for collective security, and against our isolated position met.

Mr. BLOOM. Who is "us?"

Mr. EICHELBERGER. I can give you a list of them if you desire it.

Mr. BLOOM. Just briefly.

Mr. EICHELBERGER. I am referring to the heads of various peace and religious organizations who stand for world cooperation that we formed that organization, the American Union for Concerted Peace Efforts, the individuals serving as individuals, but, nevertheless, with considerable constituencies behind them. We had a conference in Washington a week ago last Sunday, a conference of 200 experts, to consider how our three-point program might be made more widely known throughout the country, and I talk about that three-point program in the statement.

Every person in the United States wishes to keep the United States out of war. Our first concern is the maintenance of the peace, democracy, and prosperity of our country. There have developed two opposing theories as to how this might be accomplished. One policy that has been advocated before this committee is that of isolation and impartial neutrality. The upholders of this theory say that the best course for the United States is to treat all nations alike and to withdraw as much as possible from contact with the rest of the world, on the assumption that by so doing the United States may avoid participation in armed conflict.

I appear on behalf of a large group of people banded together in the American Union for Concerted Peace Efforts which believes that the safer policy for the United States is to stand on the side of international law and order in the hope that by so doing war may be averted and thus involvement by the United States impossible.

Any policy of any kind, even no policy at all, for a great nation involves risk. We believe, however, that the policy of intelligent opposition to aggression involves fewer risks than the policy of drift. For some time the world has been drifting to catastrophe; the United States has not been in a position, partly because of our neutrality legislation, to exert its full influence on the course of these events. Nevertheless, the increasing fear of war and our military budgets are indicative of the fact that we feel ourselves carried along in the stream to disaster.

The United States is the most powerful Nation on earth. We can say without any boasting that this period of history may belong to us. The youth and the vitality of our country plus the fact that we supply one-third of the raw materials and account for 40 percent of the industrial output of the world, lead us to believe that the weight and influence of this country is so decisive that thrown to the side of peace and against aggression, it could tip the scales on the side of peace. On the other hand this influence frustrated and dissipated through the attempt at a policy of impartiality may result in the world drifting into war which would involve us, not on our own terms, but on someone else's terms.

The American Union for Concerted Peace Efforts believes that the only adequate foreign policy for the United States is a threefold policy: To oppose aggression, to promote international justice and economic cooperation, and to develop adequate peace machinery. We believe that these are indivisible parts of an adequate policy for our Nation. Science has eliminated time and space. As the population of the world has been increasing at its most rapid rate, we have reached the limits of new land to discover. The colonial and pioneer periods of history are passing. As far into the future as we can see, we must adjust the

problems of nations to an earth whose limits have been reached. In such a situation we can no more permit international anarchy in which a few dictators and militarists may threaten the peace of the people of the world, most of whom want peace, than we could permit one individual to destroy the security of a half million people in a highly developed city such as Washington. Such an international community also assumes that the nations will establish the machinery and the processes not for the enforcement of a mere status quo but to accommodate a changing world. We cannot oppose aggression and develop economic cooperation successfully without adequate machinery of international cooperation.

The problem immediately before this committee is the revision of the neutrality legislation. We believe that the present bill contains two great defects: It does not provide for an embargo upon raw materials which to an aggressor nation may be more important than arms. It does not provide for a distinction between the nation that has gone to war in violation of obligations which it has taken to the other nations of the community of nations and the nation that is engaged in pure self-defense.

Mr. JOHNSON. It is your first proposition that the present neutrality law does not provide for an embargo against raw materials, that raw materials would be included if the cash-and-carry provisions of the present act should be invoked?

Mr. EICHELBERGER. Only to the extent that a nation would have to come and get it and pay for it; it has that embargo feature.

Mr. JOHNSON. It is a limited embargo, in other words?

Mr. EICHELBERGER. Yes; it is a limited embargo. Most people will agree upon the first defect; the second has been the subject of such debate before this committee.

Only one resolution before you, that which Congressman Geyer has introduced in the House and Senator Thomas in the Senate, provides for the distinction between the treaty-breaker and his victim. I believe that Congressman Geyer and Senator Thomas have drafted their bill with great care. I hope the time will come when collective security has been established so that the aggressor nation will be determined in a world conference. But in the confused state of affairs, the Geyer bill provides for a hundred percent American definition of aggression. The aggressor is the nation that is at war in violation of a treaty with the United States.

Many of us would have no objection to the President's making the authority to modify his embargo to apply against one side only. But in order to protect the fear of those who believe that one man should not have so much power, the Geyer and Thomas resolutions provide that when the President has found that a nation is at war in violation of a treaty with the United States, he may with the consent of both Houses of Congress modify his embargo, which presumably would have already been applied against both parties, to apply against the treaty breaker only.

There are those who will say that to distinguish between the aggressor and his victim is a dangerous policy for this country. We do not believe that the danger of such a step is as great as the danger of doing nothing and permitting the situation to drift to world war in which we may be involved. We do not believe, that Japan with her hands full with China and worried about Russia is going to make war

upon the United States because we tell Japan that she cannot have our supplies for war purposes since she is clearly in violation of the Nine Power Treaty and the Kellogg Pact.

But the power to discriminate in the Geyer<sup>1</sup> and Thomas provisions is not compulsory. If Congress does not wish this distinction to be made it will not make it.

Frankly, it may be that the only value of any neutrality legislation is in its ability to discourage war in advance. Possibly no legislation is adequate in case the majority of the peoples of the world become belligerents. The present neutrality law notifying the nations in advance that this country will make no distinction between the treaty breaker and his victim has been, to our way of thinking, an encouragement to aggression in Asia and Europe. We believe that the passage of the Thomas and Geyer resolutions, even though the President can act only with the consent of Congress, would be a warning to a potential aggressor that this country might make a distinction and consequently might be the deciding factor against aggression.

How about the other measures before your committee? As for those that would make the legislation more mandatory, since the present bill has not been successful because of its mandatory features, we do not believe that the bill can be perfected by intensifying the features that have made it unworkable.

As for the bill of Senator Pittman which would make our neutrality policy essentially cash and carry, it is admitted that this bill would aid the British and the French in Europe, something which the public opinion polls indicate the majority of the American people wish to do, but it would aid Japan in the Orient, something which the American people do not wish to do. I say with all due respect to Senator Pittman that he has admitted the weakness of his bill by suggesting that it be supplemented by other legislation directed specifically against Japan.

I understand that yesterday Senator Pittman introduced a bill which would authorize the President, after 10 days' notice to Congress, to impose an embargo upon nations violating the Nine Power Treaty. Essentially this is the provision of the Geyer and Thomas amendments applied to a specific treaty in a specific area of the world. Here the aggressor would be the violator of a specific treaty with us. There is time for congressional review. This resolution indicates that it would be perfectly possible to unite the Pittman resolution extending the cash-and-carry feature and the Geyer and Thomas resolutions.

To sum up, we prefer no neutrality legislation to that which is now on the statute books; we support the Geyer and Thomas resolutions; we suggest that a solution would be the uniting of the principles of these resolutions with that of Senator Pittman.

It is a confession of cowardice for a great nation, the greatest nation, to say that it is afraid to declare that its resources, without which the world cannot wage war successfully, will be denied those nations that violate their treaties with us.

It is sometimes said that the aggressor cannot be determined, and yet there has scarcely been a single instance of aggression since the World War in which the nations have not been almost unanimous in determining the facts of aggression. This has been possible because in the first place we have had a law against war which we did not

<sup>1</sup> See p. 622.

have in 1914, and because we have developed rapid means of communication so that facts can be readily determined.

I have no particular admiration for policies of the present British or French Governments, at least I did not have at the time of the Munich conference, and I do not pretend that Russia is a democracy. Nevertheless, it is not hard to see that those nations are threatening no one. If we have any criticism to make of those nations it is because they have not been sufficiently alert for fulfilling the obligations of collective security. I am not in favor of giving any nation blank checks upon American resources. But if we follow the policy of isolation we will in a sense be saying to all nations that they can go ahead and blunder into any kind of a world war knowing by our previous experience that our prosperity will be affected and the lives of our citizens may be imperiled in the kind of world war they blunder into. I want our Government to lead, to determine policies, to be able to say on what terms we will cooperate and to be able to refuse to cooperate when our terms are not accepted. But the kind of neutrality legislation on our statute books so ties the administration's hands that it cannot take leadership, cannot formulate vigorous policies for the preservation of peace, and expect other nations to follow.

The American Union for Concerted Peace Efforts supports the excellent move of our President in sending his recent message to Hitler and Mussolini.

One should be careful in generalizing about public opinion, nevertheless I believe I am on safe ground in pointing out that public-opinion polls indicate that, while the American people are opposed to sending our boys overseas in an expeditionary force, they are in favor of amending the neutrality law to distinguish between the treaty violator and his victim, of throwing the economic weight of this country on the side of the democracies. Clearly a majority of the American people have abandoned the belief that isolation will keep this country at peace. They support ways short of war but stronger than mere words to oppose aggression. They do it because of a deep conviction that the surest way to security for this country is the prevention of war anywhere.

The American Union for Concerted Peace Efforts is amazed at the reception which its three-point program is receiving throughout the country. We believe that the majority of the peace organizations of the country and their leaders support the Geyer and Thomas resolutions.

The greatest tragedy of the post-war period has been the moral neutrality of the United States. Our mistake was not in entering the World War; our mistake was in not insisting upon the peace and organization of international society that that victory made possible. In a sense we won the war and lost the peace. Our refusal to join the League of Nations, our refusal to use our overwhelming influence for the building of the institutions of peace are partly responsible for the tragedy in which the world now finds itself. We must look to the future despite the fact that we are threatened with war tomorrow. We want peace for every man, woman, and child in this country; we want peace for the rest of the world, partly because our sense of humanity dictates it, and partly because our sense of common interests indicates that we cannot have peace and prosperity unless others have it too.



A new world must be built. We are in a transition from the anarchy of the pre-war period to a world which must have the political and the social coordination to meet the impact of modern science. The United States through its experience with many races living together and in bringing its 13, now 48 States, under a cooperative system, has much to offer the world in its evolution to a new political system. We must oppose aggression; we must promote dynamic justice for all people; we must develop adequate peace machinery. Let history say that the golden age that followed the war period from 1914 to 1940 was dominated by the only country that could safely give leadership, the country of which we are proud to be citizens.

Mr. BLOOM. When you hold these meetings in your organization do you take up all of the bills that are introduced in the Senate and the House, and do you debate and consider those bills, or do you only consider a bill that you think is the proper bill to act upon?

Mr. EICHELBERGER. We can hardly arrive at a process of elimination or consider them all. I might say to you that Dr. Brunauer and Professor Fenwick, who appeared before this committee, are members of our executive committee. We have had long sessions, and we have had a committee of experts to make recommendations for us, and I think we have considered all of the bills fairly adequately and, of course new ones are coming out every day, but I think we have considered the major ones in reaching this decision.

Mr. VORYS. Then probably you have considered the Nye-Clark-Bone resolution? Are you familiar with that?

Mr. EICHELBERGER. Yes, somewhat.

Mr. VORYS. What is your view on that?

Mr. EICHELBERGER. I think it would simply perpetuate the evil of the existing legislation, if not intensify it, that it does not make provision for the distinction by the President and the consent of Congress between a nation that breaks and does not live up to its treaties, and one that respects them.

Mr. VORYS. The President has the power now with the consent of Congress to make a distinction, has he not?

Mr. EICHELBERGER. Yes.

Mr. VORYS. So that the Thomas-Geyer bill, as far as practical results go, merely states what is now within the power of the President and the Congress?

Mr. EICHELBERGER. Well, my reply to that would be very much like Dr. Brunauer's reply which was made a few moments ago, that by stating it in advance, in the first place, we are giving warning to other nations that they have abandoned these treaties and our moral principles, and that we, presumably, would make a distinction between them. In the second place, by stating the proposition in advance, all nations know that they will be treated alike, in case of a violation of their treaty. It does not seem so much like legislation directed toward one nation as though it were applied to a specific situation.

Mr. VORYS. But is not that objection to the Thomas-Geyer amendment the objection that Mr. Shanley has brought out, that we do not really mean what we say? If the nations would repudiate their treaties, immediately upon our passing the Thomas-Geyer law they would then be free and still would expect to go ahead and determine the aggressors, not because of any technical violation of a treaty,

but just because we felt that our interests, or our economic and our moral interests were offended?

Mr. EICHELBERGER. I would like to make this point. When the nations signed the Kellogg Pact I happened to be in Paris on that glorious day, when the German, the French, and the other foreign ministers drove up to the palace in which this treaty was signed. The world, at that time, was in a sense taking a deep breath, and it was a new lease on life. It was not just a treaty between two or more nations for a particular situation. They were doing something very fundamental. They were making a fundamental change in the way of life, and I do not believe they envisaged at that time that any nation would within its function denounce that treaty, as it might denounce a commercial treaty or something else. I do feel that there is something exceptional about that situation.

Mr. VORYS. But each nation, in signing that, took it with the reservations which we and the British had written into it, whereby each nation was permitted to be the judge, as to whether its action would constitute war; is that not true?

Mr. EICHELBERGER. You are quite right, Congressman. The right of self-defense was definitely recognized, but, after all there is the principle of reason in the world, and when Japan makes war on some other nation thousands of miles away from home in the name of self-defense, and Germany attacks Czechoslovakia in self-defense, it is reducing the principle of self-defense to an absurdity.

Mr. VORYS. It is not a legalistic attack, but a technical violation of treaties that causes our indignation, is it?

Mr. EICHELBERGER. It is something more than a pure technical violation; yes.

Mr. VORYS. If they could prove before the bar of public opinion, or before a group of lawyers that they had not violated the treaty, or that a general treaty of peace was not violated that would not change our view, would it?

Mr. EICHELBERGER. No.

Mrs. ROGERS. Since the Kellogg Peace Pact the countries do not declare war any more; they just fight.

Mr. EICHELBERGER. But the Kellogg Peace Pact does not say nations will not declare war. War is a matter of national policy. Even though Germany has not fired a shot in taking over Czechoslovakia, it is a fact she did show and use military force.

Mr. ROGERS. Do you think it is unfortunate to have on our statute books a law and not enforce it?

Mr. EICHELBERGER. You mean the neutrality legislation?

Mrs. ROGERS. Yes; the neutrality legislation, so-called.

Mr. EICHELBERGER. I am delighted that the President did not invoke the neutrality law in the Far East, and I feel the consequences on China would have been very disastrous. There has been practically no public opinion that I know of that has existed for the President invoking the neutrality law in the Far East; there has been no public opinion for it.

Mrs. ROGERS. Some people seem to think it would have been better if the rule had been invoked, that it would have been better for China.

Mr. EICHELBERGER. The Chinese do not think that.

Mr. SHANLEY. Take the Japanese situation. As I understand it, when they went into the 1922 Naval Conference they went into it to bring about a decrease in armament. The dominant party in Japan at that time was a peace party. They went into that sincerely, and then when the militant party got into control in Japan they were just thrown out. If we were forced to wage war in Europe, and we said we were waging it in self-defense would we not have to use the same fiction to go over there that they themselves did when they violated the Kellogg-Briand Pact in going into China?

Mr. EICHELBERGER. Well, I was in the last expeditionary force, and I am not anxious to be in another expeditionary force. I think if a world war breaks out the same moral and psychological factors that engulfed us in the last war would engulf us again. It may be a case where we would be using mechanical equipment, and waging it with our Navy and with machines, but I hope we can still find a way to throw the great and tremendous weight of the United States against war breaking out. I still think there is a chance of war being prevented. The President's note to Hitler and Mussolini 10 days ago, despite the fact that Hitler's reply is very unsatisfactory, prevented war from breaking out before this. This country more and more becomes the financial and moral leader of the world. Here is a country that produces 40 percent of the industrial products of all the world, and one-third of all of the raw materials. Germany needs those raw materials. The colonies do not and did not give her raw materials. She gets her raw materials in this country. What we need is legislation that will give the President and the Congress the opportunity to throw their weight where there is a very good chance of it bringing peace.

Mr. CHIPERFIELD. How can we get into war if this Congress will not vote us into war, regardless of our neutrality legislation?

Mr. EICHELBERGER. Mrs. Rogers brought that out a few minutes ago. The people do not declare war. They find themselves in this situation. Suppose that we suddenly find that the Fascist powers are undertaking something that affects our interests in South America that, I would say, entered into very considerably the question of self-defense, that question of declaration having come before this Congress acted at all.

Mrs. ROGERS. Do you not feel that Hitler indicated that he did not want to fight and underneath he realizes he ought not to fight for his own self-preservation?

Mr. EICHELBERGER. I am sorry I did not have any radio in my hotel room, and I did not hear his speech this morning.

Mr. BLOOM. He indicated this, if I may answer that question: Hitler today says he does not want to fight if he can get everything without fighting, but if he cannot get it that way he is going to get it.

Mrs. ROGERS. I thought there was fear in his speech.

Mr. BLOOM. His voice was entirely different than it has been, but he talked peace with Poland in one breath, and then he said if he does not get what he wants, why, he is going to war. That is just what he says. He talked war a second after that.

Mrs. ROGERS. England was the only country he really attacked; he protested friendship for France.

Mr. BLOOM. I listened to him for 2½ hours.

Mr. SCHIFFLER. He charged that Poland had already broken five treaties that it had made.

Mr. VORYS. Returning to your statement of a minute ago is it not true, that Europe is at war, judged by all of the tests that you apply, except blood letting, and in any war there are many days on which no blood is shed. That is war that we have there now.

Mr. EICHELBERGER. We have a war in China involving one-fourth of the population of the world. We have had a bloody war in Spain for years; we have had a bloodless war in Czechoslovakia, and we have had and have an economic war being waged on all fronts, so, we are in a war situation.

Mr. RICHARDS. I want to go into the field of imagination a little bit and ask you a question. Of course, it would be based on imagination. Suppose they get into a war over in Europe, naturally, if we are aligned on one side or the other we will be aligned on the side of the democracies, if we are going to get into that war.

Mr. EICHELBERGER. Yes, sir.

Mr. RICHARDS. Now, do you think with the tense atmosphere over there, and unless somebody is willing to give them something, they fight for it, do you think those same nations will ever be able to sit down together after another war and do anything else but what they have done before, the victors grab everything that they can get, and let the vanquished stay there vanquished until in the years to come they are strong enough to protest against it. We all think of idealistic situations where nations settle their disputes without war, and that situations like that ought to come about in human relations, but do you think they will ever do anything like that, based on past experience in Europe?

Mr. EICHELBERGER. That is a question based on imagination, of course.

Mr. RICHARDS. Yes, sir.

Mr. EICHELBERGER. Of course, in the first place, the question is what is it that we can give the dictators that will make them agree to stop fighting. I think we have got to distinguish between our people, who really want economic justice, and the dictators who want prestige. There was not any economic advantage to be gained in Albania when Mussolini went over to conquer that country. It was purely a prestige situation.

Mr. BLOOM. She was the protectorate of Albania at the time she took it.

Mr. EICHELBERGER. Yes.

Mr. BLOOM. So, she practically had it.

Mr. EICHELBERGER. Then he had to go in and show that he could do something like Hitler did. It is a matter of prestige. If we start on a policy of bribing dictators, it is only a matter of time until one of these days they will say, "What kind of a bribe have you got to offer us," and say we will leave off of South America, leave your commerce alone in South America if you meet our conditions.

Mr. BLOOM. In other words, they will have a price list?

Mr. EICHELBERGER. Yes, sir; that is right. On the other hand, I agree that the refusal to give Germany economic justice after the war has something to do with the psychology of the Germany people now. I do not believe it was so much the Treaty of Versailles that resulted in Hitler as the economic nationalism that the nations fol-

lowed after the war. On the other hand, Italy was one of the victorious powers, and she strung out her frontier, and did very well in the war. Italy has needed raw materials. It is economic nationalism and poverty of the German and the Italian people that has had so much to do with those developments since the war.

I think one of the most fortunate things today is the fact that the short-wave radio stations are finally getting the news through to the German people that these things are being offered, and that they are becoming familiar with the situation.

Mr. RICHARDS. We have not seen where England, for instance, has signified a willingness on one single occasion to give up 1 foot of land.

Mr. EICHELBERGER. She has been quite willing to give up somebody else's land but not much of her own.

Mr. RICHARDS. Unless they start in changing their attitude over there on both sides of the question they will never get anywhere.

Mr. EICHELBERGER. President Roosevelt's recent message cut both ways, and equally applies to the dictators and the democracies who are saying, "Yes; we are willing to give economic justice." Leon Blum, when he was still premier of France, in January, 3 years ago, made, I think, the most generous offer that was ever made to the German people for economic cooperation. He offered them an economic partnership in the development of the French colonies.

Mr. VORYS. There is not any chance for permanent peace in Europe until either it is a peace that comes from exhaustion or satisfaction. That is, England has to disgorge somewhat, and France has to disgorge somewhat, either by way of territories or by way of cessions that will make trade profitable to these countries who feel that they have not enough. Is not that true?

Mr. EICHELBERGER. Well, I do not think you can blame everything that Germany is doing today or that Italy is doing today upon the British, the French, and the Americans. I think you have to take the factor of human personality into consideration. We happen to have today one of the great tragedies in the history of the world, two megalomaniacs, two men, who, if they were living in a civil community would be assigned to a psychopathic ward, and who happen, because of our lack of economic organization throughout the world, to be able to threaten the security of 2,000,000,000 people. I agree with you that there has got to be a conference and a parliament of justice, but I say it must not be based on concessions, by bribing off dictators with somebody else's territory. It should be based on constructive efforts, and President Roosevelt pointed out the way in his message. There are several things, however, that both the British and the French could do. They could say to Germany we will give you equal opportunity and access to our colonies. Then they could also say to Germany, these colonies that we took away from you at the close of the war we are not going to give back to you. To do that would be a step backward, but they could say, we will do what the Thirteen Original American Colonies did when the Federal Union was created, they gave a title to all of their western lands to the Government. They could say, we will turn the colonies that we took away from Germany over to the League of Nations, until those colonies were ready for reinstatement at a later time.

Mr. VORYS. Let me make a suggestion as to the way to go about this, which would not be appeasement or a bribery proposition, but

very fair. Do you not think it might be to our interest not to get too deeply involved in that problem? Where the people of Europe are going to live together is not our problem, unless we make it such. They are willing, as Hitler said today, and all of them, at least give lip service as to the willingness to let us alone. Now, if we go over there, and I do not mean with troops, but if we go over there and say "Now, we insist on sitting down at the table while this goes on," then is there not a great danger that they would say to us, "Well, now, what are you going to give?" If we say those are Europe's problems, and that everything has got to work out, and they are going to work it out, and we hope that it will be done peaceably, and we want to use our influence to have it done peaceably, but when it comes to sitting down to carve up the Western Hemisphere, do you not think the best way to keep them from talking about carving up the Western Hemisphere would be to keep out of their conferences and the negotiations which we think ought to take place?

Mr. EICHELBERGER. It is not anything to which one can give a "yes" or "no" answer, but you have asked me a very, very large question. My own view is that I do not believe it is any of our concern and, certainly, not worth the life of an American boy as to what kind of an arrangement Poland and Germany make over the city of Danzig. That is purely their affair. On the other hand, if the triumph of fascism goes so far as to threaten our peace and security, then we cannot say it is purely an European situation. Here is Germany dominating all of Europe economically today. She is making a definite war upon our trade, reciprocal trade program, and American labor is becoming increasingly worried, because where Germany forces herself in, labor standards go down. I was in Sudeten Germany last year before Hitler marched in, and they said we want to be a part of Czechoslovakia, and not Germany, because we know what is going to happen to labor standards when Germany comes in. All of that means dangerous competition for the American workers.

You have just voted billions of dollars for military preparation, and I think you were absolutely right in doing so. That would have seemed fantastic several years ago. We are definitely affected by this world situation in our prosperity, consequently, we cannot just stay out of it. We have to be concerned with international law and order, with world prosperity and justice as much as possible. Then, when you come to talk about a definite economic arrangement for Germany, remember that we furnish one-third of the raw materials, the raw materials that the world now uses, Germany and other countries. I would hate to see the rest of the nations sit down and say we are going to give none to the so-called "have not" nations. We are too big and powerful to avoid contact with these conferences without doing ourselves a lot of harm in avoiding them.

Mr. SHANLEY. I think, essentially, President Wilson's 14 points were not the cause of fighting that war, although they might have been the cause of ending it. Any unconditional entry into any war presents a problem. If we go to war to fight in Europe, can we set up the principle so that our entry will not be unconditional? Is it possible for us to set up certain standards so that the world will know what we are fighting for, and so that the conquerors will not get together and be just as belligerent and just as militant as the Big Four at Versailles? How can we prevent that?

Mr. EICHELBERGER. The United States is the Nation that prevented that, the one Nation that prevented that.

Mr. SHANLEY. President Wilson compromised for the League of Nations. Did he not, politically speaking?

Mr. EICHELBERGER. Yes; he compromised for the League of Nations.

Mr. SHANLEY. But that was the ideal of ideals.

Mr. EICHELBERGER. Yes; and I think the League of Nations developed very nicely. I myself attended almost every assembly of the League of Nations. We had a remarkable period of peace from 1923 to 1931 when the League of Nations was functioning best. I saw Briand and Streese-man in many dramatic moments. The Treaty of Versailles was being revised only through international pressure on the question of real justice rather than false hopes being offered to all nations. The tragedy is that we still thought we could be neutral. I may be straying clear off the subject under discussion here, but I would like to say this, gentlemen, that it will not be more than a year or so from now until this committee will be considering how to rebuild the international machinery. You may decide to do it at Geneva, or you may do it in Brussels, or in San Francisco, but I do not believe that we can have a world in which justice can be provided for the so-called have nots, in which all nations can live at peace when we have reached that stage of complexity because of modern science, where we have to have discussions of the fundamental problems of raw materials, and so forth. I think we shall probably change it very considerably, and we will not want the sanction provisions that were in in the beginning. Nevertheless, I believe that in a year or so from now you gentlemen will be considering how we can resuscitate some kind of international peace machinery, taking advantage of the points embodied in the League of Nations, and likewise taking advantage of the mistakes that were made. I do not care whether you call it the League of Nations, or what it is called, but the world cannot go on without some kind of international peace machinery. It may be that world events are in such shape that if war is averted, within a year or so we will be going ahead with some such constructive step.

Mr. BLOOM. The Chair wishes to state that we have one more witness to hear this morning, and then we would like to go into executive session after the next witness is heard.

Mrs. ROGERS. What effect would it have had on Germany if the Allies had gone into Germany, and if Germany had had a taste of aggression in their own country?

Mr. EICHELBERGER. I have often wondered about that. General Foch said it was not worth the life of a single French or American soldier to have a triumphant march into Germany. A triumphant march into Germany might have made the Treaty of Versailles worse. On the other hand, I was amazed to have young students tell me that they believed it was all propaganda that they had ever caused any devastation in France.

Mrs. ROGERS. What about the propaganda that is going on in our own country, of group against group? Do you think it is dangerous?

Mr. EICHELBERGER. I think it is unavoidable in a democracy, but as long as we keep our means of communication free, a comparatively

free press, and a comparatively free radio, we are in a better position to resist their propaganda than we have ever been.

Mrs. ROGERS. That is pleasing.

Mr. EICHELBERGER. Yes, ma'am.

Mr. BLOOM. Thank you very much, Mr. Eichelberger.

Mr. EICHELBERGER. Thank you, Mr. Chairman.

**STATEMENT OF DR. DIANA MONSMAN, SPEAKING FOR THE MARYLAND STATE DIVISION OF KEEP AMERICA OUT OF WAR CONGRESS, AND EXECUTIVE SECRETARY OF THE MARYLAND BRANCH OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, BALTIMORE, MD.**

Mr. BLOOM. The next speaker is Dr. Diana Monsman, speaking for the Maryland State division of the Keep America Out of War Congress, and executive secretary of the Maryland branch of the Women's International League for Peace and Freedom. Dr. Monsman will give us the benefit of her knowledge with reference to neutrality and then we will go into executive session.

Dr. MONSMAN. This will be a very informal talk, for I have not written it out, but I do want to make three things clear. In the first place, the group with which I am associated as secretary and field worker is not a member of the so-called collective-security peace groups. There are powerful peace groups which do not belong in the collective-security camp, as you know. Nor do we regard ourselves as an isolationist group at all. We are willing to cooperate with other nations in every sort of a way except in war. Next I want to say that we are not necessarily a pacifist group. There are probably some pacifists among us, but most of us do not dispute the right of self-defense or anything like that. And, finally, I do want to make this preliminary remark, that I am not at all speaking as an expert, not in the slightest degree. I am a field worker part of the time and I meet people out in the counties—farmers and their wives, members of religious organizations, and plain people generally—as well as people in the cities. I do want to go on for just a few moments and tell you what I think these people feel and believe.

They do not know anything about the various treaties or about sanctions. I mean, not many of them know anything about the intricacies of international relations, but they have a feeling, a very definite instinct, as to what they want and what they do not want. They believe, first of all, that the world is in such a condition that they do not want the country to get mixed up in any unneutral situations of any kind. They want to keep out of these unneutral situations. They do not want the President to talk us into war; they do not want the Congress to legislate us into it (which Congress now has no intention of doing); and they do not want any organization of which they are members to push them into another righteous war. They feel that they do not again want to be caught in all the financial involvements which they now know existed just before the last war. For instance, our people in the counties will say, "Well, I do not see where I can get overexcited about the financial investments of our New York bankers, or our financial investments in England or in Australia." They are, plainly, more concerned about their children,



and their standard of living, and about peace in their own country and communities, than they are about the state of the world.

They are, I think, as I see them, very suspicious of all sorts of moral commitments. They do not like our nation to pick out another nation and brand it the villain or the aggressor. They may decide it for themselves, but they do not like the country to select the victim and thereafter feel obliged to stand back of the victim. They feel that is a very dangerous thing to do. When you talk with some of our rural people you feel that they are suspicious, even, of making cash sales, let us say, to some of these belligerent nations. For instance, this is the way they feel: First we give merely moral and verbal commitments; next we shall make cash sales to our international friends; and then we shall have to give them credits, because, of course, cash will soon be depleted and we shall have to give credit to our friends. Legislation will make it possible and probably we shall be lending them another \$2,000,000,000 as we did before. Soon thereafter we shall be fighting again on the side of our allies as we did in the World War. Ordinary people are suspicious of that whole series of events, and they are afraid of it. You may talk to them and say, "But, do you not feel a sense of responsibility for what goes on in Czechoslovakia, and for what goes on in China?" And many of them will answer, "Well, it is because we are so responsible for what happens in the world that we must not make the situation any worse." The argument concerning responsibility is a knife which cuts both ways. I believe our farmers and our people in the country are instinctively much shrewder than we think they are.

Then, the other argument which they always bring forward is that there is so much to do at home. They will talk about their children in college, and about their having to come home because they have no money for tuition, and they wonder what can be done about it. Some of our country people worry about low prices, droughts, erosion, and that sort of thing, and they will talk about that. They have talked to me about taking care of refugees. In fact, they are the most responsible, good-natured, and the best-hearted people in the world. But they do not want the country to commit itself before hand to fight the democracies' battles when they are all the while in the dark about the policies of our friends. They are terribly suspicious of England's policies. They do not know what England and France are up to. Our people in the counties go more by what they feel and believe than by what they read. There is a great deal to be said for it. They are as kind and as generous as can be, yet they do not want to stand for anything like the Thomas amendment or the Pittman resolution. At all events, members of our organizations believe-- and the Baltimore Federation of Labor feels the same way-- that our neutrality legislation as it stands, if nothing better can be devised, is well enough. Or, perhaps, something like the Clark-Nye-Bone resolution is still better. This is the information I have secured in my field work, from informal talks with informal people.

Mr. BLOOM. They listen to the radio, do they not, and get their information that way?

Dr. MONSMAN. Yes; they do. But they do not always listen to Town Hall.

Mr. JOHNSON. What do they think about the Chinese-Japanese situation?

Dr. MONSMAN. I feel that our people are against the Japanese, but that does not make them want to do the things that we sometimes say they want to do, that is, in some way punish Japan.

Mr. JOHNSON. Do they favor any legislation to prohibit the shipment of scrap iron or any other materials to Japan in this conflict with China?

Dr. MONSMAN. I think that if some way could be devised whereby such shipments could be stopped they would be very pleased. But they do not want it, I think, to be a matter of peace and war; that is, to be a matter of neutrality legislation.

Mr. BLOOM. In other words, they do not want us to get into war; that is about the idea?

Dr. MONSMAN. Yes, sir; they do not want us to get into war. They believe that if the President and Congress choose sides in this matter it will lead to war.

Mr. CHIPPERFIELD. They want to see neutrality apply to both sides, and not take sides, even though it might affect one side one way and the other the other way? In other words, not lift the embargo on one side and then, perhaps, strengthen it with the Nye-Bone-Clark resolution?

Dr. MONSMAN. Yes. The people that I have come in contact with seem to think it is perfectly all right for them to pass judgment, but it is not quite the thing for legislation to do because it is too dangerous.

Mr. SHANLEY. You say you have talked with and consulted people on the streets. How about the leaders of public opinion in the community? What do they think?

Dr. MONSMAN. I am talking mostly about the people in the street, particularly in the counties.

Mr. SHANLEY. The State of Maryland?

Dr. MONSMAN. Yes, sir; in the State of Maryland. The leaders are divided, certainly. I think you do find a difference between the counties and Baltimore City. In Baltimore City, I think, there are more peace people in the collective security groups than you find in the counties. In the counties of Maryland, for instance, the American League for Peace and Democracy has practically no branches or dues-paying members, but our Women's International League is very well organized in some of the Maryland counties. The Keep America Out of War Congress has substantial connections in the counties among the farm groups and the churches, and so forth.

Mrs. ROGERS. How many groups did you say you represent?

Dr. MONSMAN. I, personally, am with the Women's International League for Peace and Freedom. It is an organization which was founded by Jane Addams, and is not composed of affiliated groups. That is, the Women's International League for Peace and Freedom has a dues-paying membership. It is an international organization, however. That is, we stand for international cooperation and international action, but not for international war commitments.

The Maryland State division of the Keep America Out of War Congress, for which I happen to be speaking now, but with which I am not nearly as well acquainted, is made up of many affiliated groups: For instance, it is endorsed by the Baltimore Federation of Labor, various religious groups, by student groups and so on. There are quite a number of them.

Mrs. ROGERS. I have the feeling that your organization does not care whether any legislation is passed or adopted, if passed, so long as the legislation or lack of it tends to keep us out of war?

Dr. MONSMAN. I think if the Nye-Bone-Clark resolution is not adopted they prefer to see the present legislation go on. By the way, many peace organizations as well as the Women's International League for Peace and Freedom pushed that some years ago very vigorously.

Mrs. ROGERS. But their objective is to keep us out of war?

Dr. MONSMAN. Yes; very decidedly.

Mr. BLOOM. Thank you very much, Doctor. We are very grateful for your appearance before the committee.

(Thereupon, at 12:35 p. m. the committee went into executive session.)



## AMERICAN NEUTRALITY POLICY

TUESDAY, MAY 2, 1939

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, D. C.*

The committee met at 10:30 a. m., Hon. Sol Bloom (acting chairman), presiding, for further consideration of bills to amend the Neutrality Act.

Mr. BLOOM. The committee will kindly come to order. We have one witness today, Mr. Irving Brant. Mr. Brant, will you kindly give the reporter your name and address and whom you represent?

### STATEMENT OF IRVING BRANT, CONTRIBUTING EDITOR TO THE ST. LOUIS STAR-TIMES, WASHINGTON, D. C.

Mr. BRANT. I am contributing editor to the St. Louis Star-Times, and formerly I was editor of the editorial page. I now live in Washington.

Mr. BLOOM. Whom do you represent?

Mr. BRANT. I represent myself only.

Mr. BLOOM. All right, proceed, please.

Mr. BRANT. In discussing proposed revisions of the Neutrality Act, I wish to base my remarks upon a rather broad survey of the condition of the world as it affects the security of the United States.

Mr. Hitler, in his recent reply to President Roosevelt, emphasized the indestructibility of the Berlin-Rome axis. In doing so, he put before our eyes a picture of German-Italian supremacy in Europe which, however unpleasant to look upon, might or might not be dangerous to the United States. He then stated that the future would see even closer cooperation among Italy, Japan, and Germany, and he declared that from the union of these three powers there would be obtained "a practical civilization and a more just world order."

When you are offered a new world order whose traits of civilization and justice are derived from the military alliance and military activities of Germany, Italy, and Japan, you are no longer dealing with the reshuffling of boundary lines on the continent of Europe. You are faced with a combination for mastery of the world.

The United States may, with some reason, look upon itself as far distant from and unconcerned with national rivalries limited to the continent of Europe. But the instant you enlarge the combination of military dictators so as to add the ambitions of Japan to the ambitions of Germany and Italy, you find the United States squarely in the middle of the picture. We are put there by our location, and by the fact that we should then be the only important world power capable

of and desiring to resist the "practical civilization" and "more just world order" which the German dictator promises for the future.

I should like to believe that the outline of world policy hinted at in Hitler's speech represented only empty words. So far, Hitler has spoken no empty words. Reversing the usual order, his deeds have been worse than his threats. The United States, whether it wants to or not, must base its foreign policy on Hitler's promise of a new world civilization whose principles are to be determined by himself, Mussolini, and the military dictators of Japan.

Since this new world order is to be based on military force, it is subject to a twofold limit, the extent of force and the extent of ambition. Of these, the extent of force is the first factor to be reckoned with, but the extent of ambition is the ultimate factor. For as force realizes ambition, the fruits of ambition swell the force into a new orbit of ambition.

The Congress of the United States cannot do its part in forming a foreign policy, it cannot with knowing judgment write a Neutrality Act, until it reaches a sound conclusion as to the extent and nature of German, Italian, and Japanese ambitions which have the backing of military force.

How are we to judge the ambitions of Hitler, Mussolini, and the Japanese? First of all, by understanding their ethics and knowing where they came from. For 15 years now it has been plain that Mussolini has looked upon himself as a combination of Napoleon Bonaparte and Julius Caesar. Reincarnation as Napoleon has inflamed his personal ambition, while the role of Caesar has fed his imperial ambition for Italy. The double imitation seemed half serious, half comic.

Mr. BLOOM. Excuse me just a second. We wish to welcome you back, Mr. Tinkham, a member of the committee who has been away on account of illness. [Applause.]

Mr. TINKHAM. Thank you.

Mr. BLOOM. We are all glad to see you back, Mr. Tinkham.

Mr. TINKHAM. Thank you very much; I was sorry to be away.

Mr. BLOOM. Proceed, Mr. Brant.

Mr. BRANT. What the world failed to observe, or failed to heed, was that three men, not two, molded the personality of Mussolini. The third, and most important, was Machiavelli.

Some years ago I amused myself by taking the speeches and actions of Mussolini and tracing them back to specific passages in the writings of Machiavelli. It made me laugh, to think that a man could hope to put the precepts of Machiavelli into actual practice on this civilized planet in the twentieth century. But that is what Mussolini is doing. That is what Hitler is doing. And the menace of Machiavelli in Hitler is heightened by something more terrifying than a Napoleonic or a Caesarian complex. It is heightened by a mystic identification of Der Fuehrer with a theory of Nordic destiny brutalized by the World War.

In saying this, I am not straying from the subject before your committee, but am going to the very heart of it. Because, while the military dictators are building a new world order, a "practical civilization," as Hitler calls it, based squarely on force and deception, the democracies of the world, including the United States, are still living in the kind of a world described almost 200 years ago by Montesquieu,

a world in which Machiavellism is out of date. Let me read a statement made by Montesquieu in the year 1748:

We begin to be cured of Machiavellism, and recover from it every day. More moderation is become necessary in the councils of princes. What would formerly have been called a master stroke in politics, would be now, independent of the horror it might occasion, the greatest imprudence. Happy is it for men that they are in a situation, in which, though their passions prompt them to be wicked, it is, however, their interest to be humane and generous.

That is the world of 200 years ago. It is the kind of world Americans want to live in. It is the kind we thought, until recently, we were living in. But it no longer exists. I want to say that the gravest danger we can create for our country is to try to shut ourselves away from a world we don't like, by laws whose sole objective is safety through isolation.

When Machiavelism is rampant, Montesquieu won't save us, except by pointing the contrast. Let me describe, now, the actual ruling principles of the most powerful individual in the world today. I quote from a disciple of Machiavelli who has outshone his master. These are the words of Adolph Hitler, in *Mein Kampf* [reading]:

A shrewd victor will, if possible, keep imposing his demands on the conquered by degrees. He can then, in dealing with a nation that has lost its character—and this means every one that submits voluntarily—count on its never finding in any particular act of oppression a sufficient excuse for taking up arms once more. On the contrary; the more the exactions that have been willingly endured, the less justifiable does it seem to resist at last on account of a new and apparently isolated (though to be sure constantly recurring) imposition.

There is no need to say how perfectly that diabolically ingenious process has been carried out. But will somebody tell where it will end, and what lies beyond?

Hitler understands thoroughly the difference between his political methods, and the political methods of the democracies. He said last Friday to President Roosevelt and to the world:

I am not a democratic statesman, you know, but a realistic person.

Hitler was not making a mere personal contrast, he was referring to a long-recognized difference between principles natural to a democracy, and those natural to a despotism. Let me go back once more to Montesquieu, and allow him, in a single sentence written 200 years ago, to interpret the difference between a democratic statesman and a realistic person, between statesmanship in a republic and in a despotism [reading]:

As virtue is necessary in a republic, and in a monarchy honor, so fear is necessary in a despotic government; with regard to virtue, there is no occasion for it, and honor would be extremely dangerous.

By this statement you may judge every past promise Hitler has made and broken, and every future promise he has yet to make and break.

I have presented the ethics of the military dictators who are aiming at the rule of Europe. To add the ethics of Japan, and swell the aim of dictatorship to world-wide application, it is only necessary to take the ethics of Hitler and Mussolini and add the Japanese principles of personal divinity and racial destiny to furnish unity, motion, and tenacity in a program of territorial aggression.

It is only with these principles in mind that we can appraise the ambitions of Germany, Italy, and Japan, and it is only with knowledge

of both their principles and their ambitions that we can formulate our own national policy.

What are the ambitions of Hitler? What is the limit to them? In seizing Czechoslovakia he went beyond his previously declared policy of annexing only Germanic populations. He annexed a Slavic nation. How did he justify it? Why, he told President Roosevelt, Bohemia and Moravia are—

German living space which was temporarily vacated in the middle ages when Slav tribes forced their way in. They have no permanent claim to that space.

The Slavs entered Bohemia about the year 450 A. D. Hitler, therefore, claims a German birthright in all lands which were occupied by German tribes during or since the fifth century A. D. But he does not stop at that. Anyway, he says, "the space"—that is, Czechoslovakia—"is economically a part of the German economic space." And again he says of the annexation of this Slavic nation: "It goes without saying that Germany took over a 1,000-year interest in economic and political history."

It is evident that Germany claims the right to take over any territory that has, or ever has had, a Germanic population, or that lies within range of Germany's economic interests and is thought vital to her economic life. If that applies to the Ukraine and to Africa, it applies still more to South America.

On other occasions, Hitler has shown that he regards German emigrants to other countries as within his mental picture of the German Reich. He has stated in *Mein Kampf* that he intends, by military force, to find living space for 250,000,000 Germans under the swastika, in Europe. But now that he has enlarged his ambition to include whatever lands he chooses to list in the "German economic space," and is carrying Nazi propaganda both to Germans and non-Germans living on this side of the Atlantic, it is evident that our concern with Hitler covers his concern with South America, and especially with Brazil, where the richest province is almost more German than Brazilian.

South America is the only part of the world open to large-scale colonization, and German colonization from now on will carry the swastika with it, in the minds both of Nazi colonists and of the German Government. Shall we say that the population figure used by Hitler is nonsensical, that it is ridiculous to talk of 250,000,000 Germans within the expanded Reich? Well, it is Hitler's nonsense, and that it is a dangerous brand. I thought it was nonsense 15 years ago when I read Hitler's first attack on the Jews, and his prediction that when he came into power, heads would be rolling in the dust. Chamberlain for more than 2 years thought it nonsense that the Fascist dictators were fighting in Spain to paralyze France and control the Mediterranean. He knows better now.

We have just had from Hitler a speech in which he scrapped his naval treaty with Great Britain and his peace agreement with Poland. In the same address, replying to President Roosevelt's request that he pledge peace to 31 nations, he offered to negotiate a separate, reciprocal nonaggression agreement with any of the 31 that asked for it and made appropriate proposals to him. In the same address he gave a blanket guarantee that he would not attack any American country. Was this a peaceful move? The contrast between a general, unconditional pledge to American countries, and an offer of



individual, negotiated pledges to European countries, was a sinister revelation of purpose—the purpose to lull American suspicions while he proceeded to lay down conditions of nonaggression in Europe which would give him the fruits of military victory without a war. And after that? We could rely on his pledge to the Americas just about as safely as France can rely on his repeated assurance—an assurance that is part of his plan of campaign—that he will never attempt to bring Alsace-Lorraine into the German Reich. If Hitler were to define a “democratic statesman,” he might say, “One who relies on such a pledge.”

The Hitler technique is one of timing—keep all adversaries quiet, and divided, until the time comes to deal with them.

When the time comes for Hitler to enter the field of large-scale colonization combined with economic penetration, it will be found that South America is a more fruitful field of operations than the Russian Ukraine. What this will mean, if undertaken after a war that makes Hitler triumphant in Europe, can best be realized after an appraisal of the ambitions of Mussolini.

Mussolini's ambition in Europe, Africa, and Asia Minor is to reestablish the Roman Empire by encircling the Mediterranean. He has the same drive toward South American colonization as Hitler, and ample room to indulge in it without competing with Hitler.

The military ambitions of Hitler and Mussolini in Europe alone, if crowned with success, will result in the disappearance of the British Navy. The British Navy, though we don't say much about it, has always been the first line of defense of the Monroe Doctrine. Eliminate that line, put Africa under German and Italian domination, and you will suddenly find that South America is practically under the wing of the Fascist naval power that will supplant the British.

Now turn to Japan. We see Japan changing from an insular to a continental power, with an army of invasion attempting to bring all China under Japanese sway. Japan faces Russia, but the fate of Russia will be decided in Europe. If Hitler wins, Japan wins; and Japan seeks victory in the north only to be free to turn south. Even now we see Japan occupying the island of Hainan, far to the south, covering the approach to French Indo-China, and putting a Japanese base within striking distance of the British naval base at Singapore.

It is a temporary occupation the Japanese say, to furnish an air base for bombing highways in south China. In reality it is about as temporary as the occupation of Shanghai. Read Japanese public addresses on national policies, read Japanese newspapers, and you find that a new phrase has come into circulation, a phrase so well understood that it is used without explanation. It is the term, “our southward policy.” Not “our southern policy,” but “our southward policy,” the counterpart in Japan of Kaiser Williams' “Drang nach Osten.” It is a movement, an ambition, a plan of military campaign. The purpose of Japan's southward policy is not concealed. The first phase is to seize the Dutch East Indies, eliminate the British from Singapore, and control the approaches to Australia. With Japan in possession of the string of islands from the Malay Peninsula to Australia, the Philippines would be boxed in a Japanese sea, and Japan would have an oil supply for her Navy.

Once again the question of colonization would arise, this time involving both Australia and South America. Would the United

States succeed Great Britain as protector of Australia? Would the United States resist the infiltration of Japanese colonists on the west coast of South America, at the same time dealing with Hitler and Mussolini on the east coast?

It has been suggested that the United States should double its Navy. Our present Navy, backed by adequate and mobile land defenses, could defend the United States against invasion by any combination of dictators. We could not build a Navy large enough to keep Germany, Italy, and Japan out of South America, once those three nations rose to military supremacy in Europe and Asia.

Yet Senator Borah says we should forget all about Europe and rely on the Monroe Doctrine. There will be no Monroe Doctrine in the "practical civilization" Hitler says he will build in conjunction with Italy and Japan.

Great Britain and France have their backs to the wall because they underestimated the duplicity, daring, and ambition of Hitler and Mussolini, and allowed them to make Spain a third Fascist frontier against France. What Spain has become to France, as an element of strategic weakness, South America will be to us if we contribute to a military victory by Germany, Italy, and Japan.

Our present Neutrality Act is one of the factors tending to bring on a European war and a Fascist victory. It is a notification to Hitler that if he starts a war, he need not fear the use of American munitions against him. The movement to amend the Neutrality Act, by renewing and enlarging the cash-and-carry provisions which expired May 1, is a notification to Hitler that he may be mistaken in his hope.

You have, therefore, two policies coexisting in the United States, one inviting Hitler to launch his attack, the other warning him not to.

The same is true with reference to President Roosevelt's foreign policy, which is obviously intended to notify Hitler that although the United States will not send an army to Europe, the economic resources of this country will aid the democracies against the dictators. To the extent that the President is supported in this position by the American people and by Congress, Hitler is deterred from making war. To the extent that he is opposed, Hitler is encouraged to go ahead.

Every foreign embassy and legation in Washington is studying American public opinion, to determine, if possible, whether the people are behind the President. They know that the attitude of Congress and the people toward the revision of the Neutrality Act may determine whether there will be peace or war in Europe, and almost certainly will determine the outcome of it.

As affairs stood in Europe 2 years ago, the continent was so nearly in balance that Poland could tip it either way. This meant that in a general war, Italy would fight on whichever side Poland chose, because Mussolini's job is to be with the winner. At the same time, Hitler and Mussolini were together in spirit and purpose, united by ambitions so vast and far reaching that all local and minor disagreements were submerged. They went to work to make it possible to realize those ambitions. To do so, they had to put themselves where they could hope to win without Poland. They accomplished this, or think they have done so, by the conquest of Spain and the destruction of Czechoslovakia.

That is the practical situation which we face in the United States today, and we must face it conscious that if we frame our policy so that the western democracies are deprived of war munitions here, we shall

help to create the German-Italian-Japanese world supremacy which is the ultimate aim of Fascist policy.

Coming down to the Neutrality Act<sup>1</sup> itself, my opinion as to a proper policy can be stated in a few words. It should not be repealed, because that would tend to drag us into a European war by the activities of American merchant vessels in the war zone. The act should be amended to renew the cash-and-carry clause, and that clause should be enlarged to permit war munitions, as well as materials of war, to be sold and delivered at the buyers' risk.

The President, by a new act of legislation, should be given authority to forbid the exportation of any war munitions or war materials, including scrap steel, whose conservation he may find to be essential to the security of the United States. Steel scrap contains manganese and tin, two essential materials which we are compelled to import. It is pure coincidence, of course, that an embargo on exportation of steel scrap would prevent Japan from using the cash-and-carry clause to build up her war strength. There could be no ground for protest on that account, because the President's action would be based on the essential needs of the United States for security.

Of the two acts of legislation here suggested, the first simply brings American policy closer to the accepted principles of international law. The second follows American precedent, for the embargo was used repeatedly, though much less rationally than here suggested, in the early history of our country.

I see no reason for broader action, but great need for early action. One week's delay, or, in contrast, 1 day's work in speeding up a decision on the Neutrality Act, may mark the difference between peace and war in Europe, and the difference between a world which we can look upon with tranquility, or in which we shall ever be peering to east, west, or south, waiting for the calamity of war to burst upon us.

Mr. BLOOM. Are there any questions?

Mr. VORYS. Mr. Brant, as I understand it, your suggestion to us would be to renew the cash-and-carry provision plus some authority to the President to embargo specific war materials, regardless of cash and carry?

Mr. BRANT. Yes, sir.

Mr. VORYS. When you say "embargo," do you mean in case of war or at the present time or when?

Mr. BRANT. I should say in case the President concludes that it is essential to American security to put on such an embargo.

Mr. VORYS. Well, your only purpose in putting in something besides the cash-and-carry provision is to take care of the Japanese situation, is it not?

Mr. BRANT. That is an accurate statement of it.

Mr. VORYS. That is what you are after, is an embargo against shipping scrap iron, oil, and other materials?

Mr. BRANT. Making it absolutely inoffensive——

Mr. VORYS. No; but you have two things in mind. One of them is you want to stop sending war munitions and materials to Japan?

Mr. BRANT. Yes, sir.

Mr. VORYS. The other is that you are trying to think of some way to get up some formula so that we do that in a polite way, in accordance with international etiquette?

<sup>1</sup> See p. 613.

Mr. BRANT. Yes. In a way that would not be subject to any possible challenge.

Mr. VORYS. Regardless of the law we pass, when an embargo is laid against Japan, at that time it is going to be subject to great criticism and disappointment from Japan, is it not?

Mr. BRANT. Yes; I presume it would be.

Mr. VORYS. Therefore, this worry about thinking up some formula that will include that is merely postponing the day when Japan will feel that the embargo which is being laid down is an unfriendly act; is that not true?

Mr. BRANT. I think there is a great deal of difference in the extent to which Japan could make use of that feeling or resort to it.

Mr. VORYS. Well, but in any case, whether we laid down an embargo by direct legislative act, in which we simply said the following materials cannot for the present, putting in some sort of a time limit, be shipped to Japan, or whether we get up some formula, and the President worked out the formula, and then barred the shipping of those materials to Japan, the result at the time that the thing would be put into effect would be practically the same, would it not?

Mr. BRANT. The practical effect of the embargo on the shipments would be the same, but I do not think the effect would be the same diplomatically.

Mr. VORYS. The only people that you would be afraid of offending diplomatically would be Japan, Germany, and Italy; is that not right?

Mr. BRANT. It would come down to that; yes.

Mr. VORYS. And you are not very much afraid of giving offense to them, because they have stated in pretty broad terms how they feel about the situation now. Is that not true?

Mr. BRANT. That might be true.

Mr. VORYS. Are we not beating about the bush, and what we need is a specific embargo soon against Japan?

Mr. BRANT. Well, even if you undertake an embargo directly against Japan you are faced practically with the problem of finding some excuse for it, such as Senator Pittman referred to, the violation of the treaty.

Mr. VORYS. We have what you consider now sufficient excuses, that we are simply not going to furnish the wherewithal to violate a specific treaty, the Nine Power Treaty, to which we are a party. Is that not right?

Mr. BRANT. That would be one excuse; yes, sir; but it can be done without that. There is this difference in the two propositions; that is, in the embargo that I referred to, it would not be limited to Japan, but it would be general. It so happens that Japan is the only customer for scrap steel that is really dependent upon it.

Mr. VORYS. But if we followed your plan we would be getting up a formula, the exact result of which we cannot now foresee, would we not?

Mr. BRANT. I do not think that you can foresee the exact result of any formula.

Mr. VORYS. In order to achieve the specific result that we feel is necessary we would hope to do it in the polite way. We would be getting up a formula that might possibly take in some other situation that we did not want to cover at all.

Mr. BRANT. Yes; there would be that risk in it. It would just be a choice between the consequences of the two policies.

Mr. VORYS. Now, going to the cash-and-carry question, the reason that you advocate cash and carry is because, under the present situation, you feel that it would help the so-called democracies as against the totalitarian states?

Mr. BRANT. Yes; that is the feeling I have about it.

Mr. VORYS. And there, again, it is the specific result of helping the democracies that you have in mind rather than your statement that cash and carry is closer to international law?

Mr. BRANT. It is true that it is closer to international law.

Mr. BLOOM. And it makes it easier to follow that course, and is it not international law?

Mr. BRANT. The cash-and-carry provision?

Mr. BLOOM. Yes.

Mr. BRANT. Well, under the general terms of international law there would be practically no restrictions upon trade with a belligerent.

Mr. BLOOM. Then it is international law.

Mr. VORYS. I beg your pardon; it is just the opposite of the traditional international law.

Mr. BLOOM. Well, under international law you can sell goods—that is, the United States can sell goods going into any country that comes over here and buys them, or we can make our arrangements of that basis—is that not right?

Mr. BRANT. Yes, sir.

Mr. VORYS. But under international law no nation would be forced to deprive itself of the right to use the high seas. In that sense cash and carry is a very drastic change in traditional international law. Is not that true?

Mr. BLOOM. Yes.

Mr. TINKHAM. Do you think that it would be a very great calamity for the United States to be engaged in active warfare either in Europe or in Asia, or in both places?

Mr. BRANT. Yes, sir; I do.

Mr. TINKHAM. Why is not the correct policy to follow one of real neutrality, then?

Mr. BRANT. Well, if you mean by real neutrality complete isolation and the refusal to sell any war munitions to any belligerent I would say that you are inviting future consequences which will amount to the very condition that you are trying to escape.

Mr. TINKHAM. Real neutrality, I think you will find, is treating each side equal.

Mr. BRANT. Well, there is no inequality under the law.

Mr. TINKHAM. That is isolation, as you call it?

Mr. BRANT. But there is no inequality whatever under the law. The consequences simply result from the difference in the naval power of the other countries.

Mr. TINKHAM. But, in the last war the Dutch Republic pursued a policy of neutrality. They had a large merchant marine, and they were not invaded, and they did not lose a single soldier, as I understand it. Why can we not pursue that policy?

Mr. BRANT. We can pursue that policy if we are not concerned about the future. You will find that Holland is very seriously concerned about the future now.

Mr. TINKHAM. Your point is that we have got to join one of the axes if we want to protect our future?

Mr. BRANT. My point is that we have got to conduct ourselves so that one of the axes shall not come and crack down on us in the future.

Mr. TINKHAM. If you favor one axis as against another you certainly are going to have one of them come down on you in any event.

Mr. BRANT. I am not talking about favoring one of them against the other at all. I am talking about their attitude toward us, in this respect, Mr. Tinkham.

Mr. TINKHAM. I think the legislation you speak about as being desirable and your desire to favor what we call the democracies is taking sides one way or the other. If we did that certainly, then, we would get into difficulty and perhaps immediately.

Mr. BRANT. If we place an embargo upon the exportation of all war munitions, we are certainly, in practical effect, taking sides in favor of Germany and Italy. That is the actual consequence of it.

Mr. TINKHAM. From your point of view should we take sides?

Mr. BRANT. I am perfectly willing to have the consequences of our actions result in aiding one side.

Mr. TINKHAM. That is, you advocate we take one side or the other?

Mr. BRANT. No, sir, I do not advocate that at all.

Mr. TINKHAM. But you advocate that we favor one side?

Mr. BRANT. I say that it is absolutely impossible to pursue a course which will result in giving equal benefits to each side, unless we establish a physical connection with both sides that will balance the effect in Europe, and we cannot do that.

Mr. TINKHAM. Well, according to your theory we have got to take sides with one of the axes or the other.

Mr. BRANT. According to my theory we have got to look out for ourselves.

Mr. TINKHAM. Yes, I know, but in order to look out for ourselves your policy is that we would have to take sides or favor one side or axis rather than another, is that it?

Mr. BRANT. Well, the practical results would favor one side or the other, but your law would not. Your law is absolutely equal.

Mr. TINKHAM. I know, but you said in your previous remarks that you favored one side as against the other for what you believe is to the benefit of the United States, the ultimate benefit.

Mr. BRANT. It amounts to that, yes.

Mr. TINKHAM. It amounts to that?

Mr. BRANT. Yes, sir.

Mr. TINKHAM. In other words, you are opposed to what is known as true neutrality?

Mr. BRANT. No, sir.

Mr. TINKHAM. I do not see where you are not.

Mr. BRANT. No, sir, there is no such a thing.

Mr. TINKHAM. Well, now, why is there not such a thing? You say there is no such a thing. There was during the World War, and as I said Holland which, for 4 years was ringed with flame, was able to remain neutral, and was not attacked and she did not attack because she favored neither side, one side or the other. That was also true of Switzerland, and it was true of Scandinavia, and it was true of Denmark. Why is there not any true neutrality in view of this historic fact?

Mr. BRANT. Because the German General Staff simply chose to go through Belgium rather than Holland. That is the reason.

Mr. TINKHAM. What is that?

Mr. BRANT. Because the Germany General Staff chose to go through Belgium rather than Holland.

Mr. TINKHAM. But you said there was no true neutrality. I have given you an example of true neutrality during the last war.

Mr. BRANT. I was talking with a resident of Amsterdam the other day, and I was asking him what the Dutch were thinking about the Japanese menace to the Dutch East Indies, and he said, "We are so worried about our German frontier that we are not thinking about the Dutch East Indies at all; we do not have time to."

Mr. TINKHAM. But you said there was no true neutrality, and I have given you historic cases of it within the last 30 years, of true neutrality.

Mr. BRANT. The neutrality of the Dutch in 1914 was based on the only policy that they could follow at that time. That is, they would not dare to make a move.

Mr. TINKHAM. But you said there was no true neutrality, and I think I have shown you historically that there was true neutrality in recent years. Do you regard Russia as a democracy?

Mr. BRANT. No, sir.

Mr. TINKHAM. Well, that answer is all right.

Mr. HENNINGS. Mr. Brant, would you say that, in your judgment, there is a difference or distinction between impartiality and neutrality?

Mr. BRANT. Undoubtedly you will find a distinction in the dictionary.

Mr. HENNINGS. Is there not a real distinction?

Mr. BRANT. Neutrality, of course, is simply abstention from participation in war, and impartiality is looking at both sides alike.

Mr. HENNINGS. Does any nation, or has this Nation, to be more specific, every looked at both sides alike? Let us take our own Civil War; was England strictly impartial or strictly neutral?

Mr. BRANT. Not at all.

Mr. HENNINGS. No.

Mr. BRANT. Nor were we neutral in the Napoleonic wars, and neither were they neutral to us.

Mr. HENNINGS. With reference to the present act, Mr. Brant, may I ask you if you do not favor the retention of certain provisions now contained in it?

Mr. BRANT. Yes; most of them.

Mr. HENNINGS. Most of them?

Mr. BRANT. Yes.

Mr. HENNINGS. Now, those portions which you would exclude are, specifically, what? Explain what they are?

Mr. BRANT. I would renew the cash-and-carry provision, and I might say that, in the application of that Neutrality Act you had, up until yesterday, an application of that act which favored one side in a possible war. From yesterday onward you have an application of it which favors the other side. So, your theory of neutrality changed with the expiration of a certain clause in that act, and you shifted America's economic weight from one side to the other, but I think that you have got to go further than that if you are going to produce an effect from a revision of the Neutrality Act. You have got to go

further than merely renewing the cash-and-carry provision as it applies to war materials, because the superiority of the Berlin-Rome axis is in munitions, not in their materials of war.

Mr. BLOOM. Commodities.

Mr. BRANT. Yes; not in their commodities. The rapidity with which the French and the British could replace their air force might be decisive in a European war. That would not be affected by the cash-and-carry provision covering war materials, but it would be affected very materially by the cash-and-carry provision covering airplanes, airplane parts, and so forth.

Mr. HENNINGS. But you believe, do you not, Mr. Brant, that our frontier might be on the Rhine? Would you rather have it on the Rhine, on the high seas, or on our coast?

Mr. BRANT. I should say there is very little chance of establishing an actual military frontier on the Rhine.

Mr. HENNINGS. I do not mean an actual military frontier by force, armed force, no.

Mr. BRANT. I think that the policies of aggression and territorial expansion and economic penetration and colonization of Germany and Italy and Japan make our frontier any point where we choose to try to protect ourselves from the results of it.

Mr. HENNINGS. That is, by not supplying them with the necessities to carry on such offensive or aggressive measures as may be indicated?

Mr. BRANT. That is what might be called a defensive frontier.

Mr. TINKHAM. I should like to ask one more question, Mr. Chairman. We have a Monroe Doctrine which we say we shall defend the Western Hemisphere under. By what right or by what moral measure could we intervene in Europe on one side or the other?

Mr. BRANT. I do not propose that we should intervene in Europe except for the protection of the Monroe Doctrine, and not an active intervention at that.

Mr. TINKHAM. In other words, the Monroe Doctrine is to be extended around the world?

Mr. BRANT. No; not at all.

Mr. TINKHAM. You say to protect the Monroe Doctrine we might have to be here or there, and you also said something about our frontiers being different places.

Mr. BRANT. I should say our frontiers are wherever we are threatened or attacked.

Mr. TINKHAM. Attack and threaten are different. Attack is a physical thing, an objective thing, whereas threaten is purely mental.

Mr. BRANT. I think we had better do some mental work, too.

Mr. TINKHAM. Just one more question: Is it not more sensible, and would it not certainly keep us out of much more trouble, and perhaps disaster, and I do not mean merely war disaster, but economic disaster as well, for us to take the position that the Monroe Doctrine would be protected and have the Monroe Doctrine understood as it always has been understood, and as it always should be for the defense of the Western Hemisphere, rather than to proceed to Asia or to Europe to defend the Monroe Doctrine as you suggested? Would that not be more sensible?

Mr. BRANT. I should say it is more sensible to defend the Monroe Doctrine by revising the Neutrality Act affecting only the shipment of war munitions to other countries than it is to wait for an expansion



of the activities of the world triumvirate against which the Monroe Doctrine could not be upheld.

Mr. TINKHAM. Of course, I differ with you, that the Monroe Doctrine could not be upheld against any combination.

Mr. BLOOM. Dr. Eaton.

Mr. EATON. I would like to ask a question or two of our distinguished colleague, Mr. Tinkham, who came back to us in fine fighting trim. Then I have some questions to ask the witness. Mr. Tinkham is neutral except on the subject of the British Empire. He has an undeclared war against them. I would like to ask Mr. Tinkham, in order to be purely neutral in relation to Japan and China at the present time, could we not make some arrangement whereby we could ship 10,000 tons of scrap iron to Japan, and an equal amount to China, and have Japan see that it is delivered, so that when they killed each other they could do it on an equal basis?

Mr. TINKHAM. That is equal treatment.

Mr. EATON. Would not that be strictly neutral?

Mr. TINKHAM. That is equal treatment.

Mr. EATON. Is that not entirely impartial?

Mr. TINKHAM. You may say that is impartiality; yes.

Mr. EATON. I would like to ask the witness a question or two. We are here discussing the neutrality law, and back of that law lies the moral sense of 130,000,000 people, who are incapable of looking upon any human action without some moral response one way or the other. So that it is absolutely impossible to have a spirit of "universalism" or moral "eunuchism," if that word may be used, among the people. They are going to take sides. If you put a law here on the statute books to govern our action in a world conflagration, why, when the moral sense of the American people is outraged and begins to function they will sweep that law aside as though it were a cobweb.

Mr. BRANT. You want to know what I think about outraging the moral sense of the people. I was recently asked by a European whether the Neutrality Act, if it remained on the statute books as it is now with an embargo, would stand up against the moral sense of the American people, and I told him that there should be no reliance whatever by any European dictator upon the Neutrality Act controlling American policy, that the sense of the American people, the feeling of the American people would put the economic resources of the United States back of France and Great Britain, irrespective of any act of legislation now on the statute books.

Mr. EATON. Now, I think Mr. Tinkham expresses the view of the bulk of our people when he says there is an aversion to becoming entangled in the European situation, but there is one point that has not been brought out. They can guarantee over there that the consequences of their embroilment will not affect us, but they cannot guarantee that in truth any more than you can guarantee that if your house catches fire and burns down the fire will stop there and will not burn the entire city.

Mr. BRANT. I am more concerned with the actual policies and ambitions of Hitler and Mussolini than I am with any contrast between the policies of what we call the democracies in comparison with the policies of the Berlin-Rome axis, because if you look at the thing historically, take a birds-eye view of everything that has happened since the World War you cannot say that the Berlin-Rome axis is all wrong, especially

the German end of it, and that the policies of the western democracies are right. If you were governing your action by dramatic justice, you would allow Great Britain and France to go down into oblivion on account of the stupidity they have shown during the past 2 years.

Mr. TINKHAM. Should not that run back to the Treaty of Versailles?

Mr. BRANT. I was going to run it back. I should say if you are governed by dramatic justice you should allow France to be destroyed because of the stupidity of the invasion of the Ruhr in 1923, which, I believe, created the Hitler menace. I made the statement in 1923, when France invaded the Ruhr, that that was the death knell of France. But I think the consequences, the actual menace that has resulted to the world from developments in Europe, in collapse of moral principles, and in military activity, has created a threat to ourselves, to all peace-loving nations which goes far beyond any relative appraisal of responsibility. We can be governed only by the consequences which we are able to see for ourselves.

Mr. SHANLEY. Mr. Brant, I would like to go back to the genesis of our ills, and back further than that, to the so-called unconditional entry of America into the World War. At that time the same dramatic arguments, and the same emphatic statements and hopes that are now around us and which are made about the European situation, were present in the World War. There were those who held that unless we directed this strong power of the United States against Germany during the World War, we would be caught as we were standing between the pincer-like clutches of Japan on the west and Germany on the east.

Mr. BRANT. We followed it up with the peace that made conditions worse than they ever were before.

Mr. SHANLEY. When Balfour was over here it was suggested that Mr. Wilson should understand matters, and that they talk over what they were fighting for, and not merely slogans such as "Make the World Safe for Democracy," and he was prevailed upon not to go into that, I think, by Colonel House. Subsequently when the fourteen points were enunciated we had a further falling down of the high principles of the war. With the present implications and status, that must be one of your hopes at the present time.

Mr. BRANT. Not necessarily.

Mr. SHANLEY. And yet you agree that there is something wrong with the world today, something wrong in both axes?

Mr. BRANT. Yes.

Mr. SHANLEY. Now, how are we going to guarantee that those wrongs will be corrected if we do throw in the entire reservoir of our resources to restrain the Berlin-Tokyo axis?

Mr. BRANT. We cannot give an absolute guaranty, but I think that whenever the influence of the United States becomes potent enough, if it does become potent enough to prevent the precipitation of Europe into a war, that you will have a situation which will lead to peaceful modification of the status quo.

Mr. SHANLEY. Do you think it is any more sublime help than the aid we gave them during the World War when, under the circumstances, later they refused to do anything in an idealistic sense?

Mr. BRANT. I think we would have an entirely different basis for action. At the end of the World War we had one set of participants utterly defeated and helpless and the other completely triumphant.

Under present circumstances you would have a basis for practically equal bargaining on practically equal terms.

Mr. SHANLEY. On the triumphant side, just now, one of the leading statesmen comes out and admits that it was our aid that was really the coup de grace that won the war, and that is 20 years afterward.

Mr. BRANT. I do not doubt that.

Mr. SHANLEY. Do you feel that our American people, that those for whom we declare war are willing to jeopardize their own future—it is not a question of keeping out of the war, as you say, to look out for ourselves, because we can look out for ourselves anyway—are they convinced that this unconditional entry at this time is worth while?

Mr. BRANT. We are in it now.

Mr. SHANLEY. Of course, we are not in war. Nobody foresees war.

Mr. BRANT. You can't make an unconditional entry into a thing when you are already in it, and you are in it in a way that is going to make it harder to get out.

Mr. TINKHAM. The President is in. Congress is not in.

Mr. BRANT. Oh, yes, you are in.

Mr. SHANLEY. That statement has been made once or twice before this committee. How are we in it?

Mr. BRANT. You are in it because you have an act which forbids the exportation of the munitions of war, which is a departure from past policies, and a departure from the principles of international law, and you have a condition existing, the net effect of which is to aid one group of belligerents, and to aid a group of belligerents which, to my mind, are not safe to allow as the undisputed masters of both the East and the West.

Mr. SHANLEY. Of course, the present act can only be invoked on the finding of the President.

Mr. BRANT. I think Mr. Hitler would depart from his customary policies long enough to declare war.

Mr. SHANLEY. Even then the President could still refuse to make a finding that there was a war.

Mr. BRANT. If you admit the possibility of that, then the logical course is to give the President discretionary power and not have him forced to the necessity of distorting an act of Congress.

Mr. TINKHAM. I understand that the present finding of the President is because he will not enforce the Neutrality Act in the East that there is no war there.

Mr. BRANT. There has been none yet declared.

Mr. TINKHAM. Is there a war there or not?

Mr. BRANT. I should say there is a war there, but I can see how it could be held that there is not, because there has been no declaration of war as yet, and the Japanese Ambassador is in China, and the Chinese Ambassador is still in Japan.

Mr. TINKHAM. Are not the acts themselves more important than anything else?

Mr. BRANT. I would not challenge that for an instant. In fact, that is just what I have been trying to argue here all morning.

Mr. SHANLEY. You mean the embargo against the exportation of lethal weapons?

Mr. BRANT. Yes.

Mr. SHANLEY. You think that ought to be wiped off the statute books at the present time?

Mr. BRANT. Yes; because you cannot judge the consequences of it.

Mr. SHANLEY. Have you always held that opinion?

Mr. BRANT. No, sir.

Mr. SHANLEY. How did you stand in 1935?

Mr. BRANT. I favored the Neutrality Act in 1935.

Mr. SHANLEY. Is it wrong to ask you why you favored it?

Mr. BRANT. Why I favored it?

Mr. SHANLEY. Yes.

Mr. BRANT. Because I thought conditions in Europe were such that there could be no such challenge as has developed since.

Mr. SHANLEY. Then, of course, you must be classed not exactly as a collectivist, but as one who believes that the weight of our power and our resources ought to be used to punish those who depart from international law?

Mr. BRANT. No, sir; I have no thought of punishment in this connection, whatever.

Mr. SHANLEY. Take this embargo against Japan. Your thought must be to punish them. If they say they are being punished, they have a right to their own subjective viewpoint.

Mr. BRANT. I have no objection to their saying they are being punished.

Mr. SHANLEY. Then you are punishing them.

Mr. BRANT. Oh, no. They may say they are being punished when they are not. Under international law, if we are allowed to ship to them—

Mr. SHANLEY. Of course, we ship to those who have control of the sea. There are implications there of punishment, are there not?

Mr. BRANT. There are implications as to the effect of it. There might be or might not be an intent to punish, according to the circumstances.

Mr. SHANLEY. Would you say because you feel that the present act is endangering the safety and the future of the so-called democratic nations that you think it ought to be repealed?

Mr. BRANT. No, not that it should be repealed, but it should be amended.

Mr. SHANLEY. Then you do not think all of the experience we had in 1935 about getting rid of these lethal weapons and dealing in blood money and all of that has had any effect on the American people?

Mr. BRANT. I should say, under existing circumstances, that such an argument is merely fooling ourselves as to reality. It is being what Hitler called democratic statesmen, ignoring realities, though I would not have us act according to his definition of a realistic person.

Mr. SHANLEY. Do you think we have the duty of remarking the map of Europe?

Mr. BRANT. Not at all.

Mr. SHANLEY. The ones who are in control are following Machiavelian principles, after they have substituted Chancellor Hitler for the Kaiser. Once we are in there, do they fit the pattern to what we are going to do for the democratic nations that is going to benefit the world?

Mr. BRANT. We are in there now, in the path of Hitler and Mussolini.

Mr. JOHNSON. As I understand it, your position is this: You want to change the provision and wherever war breaks out, you think the most

likely involvement of this country would arise by violation of our neutral rights upon the high seas? That is where, is it not, the most danger occurs, with reference to transportation of goods and our citizens upon the ocean?

Mr. BRANT. Yes; I think that the question of involvement would be connected with operations of the merchant marine.

Mr. JOHNSON. For that reason you want the law amended so that the shipment of all goods including munitions and implements of war shall be governed by what is known as cash-and-carry and that the parties who get them take them at their own risk and the Government is not a guarantor of their safety on the high seas.

Mr. BRANT. Yes. I think the provision of the Neutrality Act which expired yesterday, which absolutely absolves the American Government from any responsibility for the transportation of war materials and for the preservation of any financial interests in them is right.

Mr. JOHNSON. Now, referring to the question asked you by Mr. Tinkham with reference to a comparison of our attitude and the attitude of Holland and the Scandinavian countries during the World War, there is this difference, is there not, that those countries sold to all of the belligerents during the World War, but those countries were not separated from the belligerent nations by an ocean? And, it was the transportation of goods and travel of our citizens upon the high seas that brought about the violation of neutrality which caused people to become inflamed in their passions such as to provoke our entry into the war, and by reason of the fact that these countries were not separated from the belligerents by the high seas, they had no occasion to give rise to the violation of their rights upon the ocean?

Mr. BRANT. Yes, sir.

Mr. JOHNSON. So, you are asking to avoid involvement because of the transportation of our goods and the travel of our citizens upon the high seas?

Mr. BRANT. Yes, sir.

Mr. JOHNSON. And those are problems that those countries did not have to contend with?

Mr. TINKHAM. Holland had a large merchant marine and her problem certainly was the same as ours.

Mr. RICHARDS. Mr. Brant, I have listened to your statement very carefully, and I am trying to get your general philosophy as to the best way to preserve American neutrality. Am I correct when I say that you take the position the way the Berlin-Rome-Tokyo axis is now going, there is real danger to the American Republic at the present time?

Mr. BRANT. No; not at the present time, but I think there is future danger.

Mr. RICHARDS. Then there is future danger. If that is the case, we have talked about Machiavellian diplomacy--if that is true, would not the honest thing for us to do be to form an alliance with England and France and the other so-called democracies and be honest about it and tell Hitler and the German people that we are going to be in on this deal together, to stopping aggression?

Mr. BRANT. No; I do not think you either should or could do a thing like that.

Mr. RICHARDS. Well, now, how can you do these other things without ultimately getting into that very thing? That is the thing that bothers me.

Mr. BRANT. If it comes to actually getting into it, I think I would prefer to take my chances on the thieves falling out after they get quite a lot of booty.

Mr. RICHARDS. Yes; but you said we are already into it.

Mr. BRANT. Yes; I think we are into it from the standpoint of the effect of our Neutrality Act.

Mr. RICHARDS. It would be necessary then for the United States to get into it 100 percent or nothing, would it not?

Mr. BRANT. No; I do not think so.

Mr. RICHARDS. There is no use in fighting with one hand.

Mr. BRANT. I hope to help them to avoid that.

Mr. RICHARDS. Our main difficulty in trying to understand Europe is the ideals of the American people. I think everybody around this table desires to bring about a better situation of international comity in the world today. After the last war, Clemenceau, one of the learned men in Europe, and one of the greatest statesmen, frankly said "the war goes on," that the World War was just a battle. In other words, their philosophy is, when they get into war over there, "we are going to knock you down and take your property and keep you under subjection as long as possible because it is only a matter of time before we must fight again."

Mr. BRANT. I think Clemenceau was one of the factors in recreating a war situation.

Mr. RICHARDS. Is there any way to guarantee that will not happen again?

Mr. BRANT. There is no way to guarantee it.

Mr. RICHARDS. It would be better to stay out of it, would it not?

Mr. BRANT. But you are in it.

Mr. BLOOM. Mrs. Rogers.

Mrs. ROGERS. What do you think actually caused us to go into the World War?

Mr. BRANT. Your question is, What do you think caused us to go into the World War?

Mrs. ROGERS. Yes.

Mr. BRANT. Well, I think it was due to very many different factors. There was undoubtedly the sympathy that we felt for the Allies.

Mrs. ROGERS. Was that built up somewhat by propaganda?

Mr. BRANT. Yes; it undoubtedly was.

Mrs. ROGERS. I do not mean in the case of Belgium.

Mr. BRANT. I have no doubt that propaganda was a very far-reaching influence in building up that sympathy for the Allies' cause.

Mrs. ROGERS. Then, I think that our economic interests which were built up by the expansion of far-reaching trade groups to European nations had a great deal to do with it, and I think that the gradual succession of events that affected our merchant marine had a great effect also, and the sinking of our ships.

Mr. BRANT. Yes; there was just one incident after another that brought us gradually nearer and nearer to the war.

Mrs. ROGERS. It did not settle anything, did it?

Mr. BRANT. Not at all, no ma'am.

Mrs. ROGERS. Do you think if we went in again it would settle anything?

Mr. BRANT. No.

Mr. CHIPERFIELD. Do you think that our present Neutrality Act<sup>1</sup> helps Germany and Italy? Under the policy you suggest, I think, we would have to reach the conclusion of helping the so-called democracies. So far as neutrality as an abstract thing is concerned, what difference does it make whether our Neutrality Act helps the so-called democracies or at the present time helps the aggressor nations?

Mr. BRANT. I do not understand your question.

Mr. CHIPERFIELD. You object to our Neutrality Act helping aggressor nations at the present time, but in the next breath you suggest helping the so-called democracies. In either case we are taking sides, are we not?

Mr. BRANT. Yes.

Mr. CHIPERFIELD. The only difference I can see is your sympathies are on one side.

Mr. BRANT. It is not a matter of sympathy.

Mr. CHIPERFIELD. Are you against American ships proceeding to participate in trade with belligerents, and if they do so they do so at their own risk?

Mr. BRANT. Yes, sir; in any war zone.

Mr. CHIPERFIELD. In a war zone?

Mr. BRANT. Yes.

Mr. SHANLEY. In the event the question of armed merchant marine came up again—because it is unquestioned now that both the Germans and the Italians in the increase of their navies have some of the largest and best submarines in the world. Under this cash-and-carry principle would you or would you not find it necessary to put into effect the Wilson philosophy of 1916 relative to arming the merchant marine?

Mr. BRANT. That would be true under the conditions as they exist today if the cash-and-carry provisions expired, but that is just the condition I want to get away from.

Mr. SHANLEY. You want a renewal of the cash-and-carry provision, do you not?

Mr. BRANT. Yes.

Mr. SHANLEY. And therefore you want that situation?

Mr. BRANT. Yes.

Mr. SHANLEY. Would the cash-and-carry provision preclude the use of American ships?

Mr. BRANT. Yes; absolutely from carrying cargo into the war zone.

Mr. HENNINGS. Do you not think, Mr. Brant, that the primary purpose of the totalitarian states and, more particularly Germany, is to wage an economic war upon us through South America, through the invasion of our South American trade area?

Mr. BRANT. No; I would not say that they have any thought of directing an economic war against the United States.

Mr. HENNINGS. By selling, for instance, in South America?

Mr. BRANT. No.

Mr. HENNINGS. They are selling planes in Brazil, are they not?

Mr. BRANT. If that interferes with the economic interests of the United States, that is merely an incident.

Mr. HENNINGS. That is incidentally a part of their plan?

<sup>1</sup> See p. 613.

Mr. BRANT. Yes.

Mr. TINKHAM. Everyone tries to trade wherever there is trade; that is certainly legitimate.

Mr. HENNINGS. Yes.

Mrs. ROGERS. What effect do you think Hitler's reply to the President had?

Mr. BRANT. You mean that it had in the United States?

Mrs. ROGERS. In the United States and in his own country.

Mr. BRANT. I think it is very difficult to appraise the effect at this time. I would not undertake to. The reply was very plainly intended to rally German public opinion behind Hitler through an expression of hostility to the United States, and my impression regarding that is that it indicates that there is a greater division of sentiment inside Germany than Hitler would like to have known.

Mr. BLOOM. What kind of sentiment?

Mr. BRANT. As to peace or war. I think he was willing to antagonize American public opinion in order to solidify German public opinion.

Mr. BLOOM. Are there any further questions?

Mr. IZAC. I would like to ask some questions.

Mr. BLOOM. Mr. Izac.

Mr. IZAC. Do you not think Germany, in going into middle Europe, and gaining what she must have for the present, has her eye eventually on expanding into the South American continent?

Mr. BRANT. Yes; I do think so.

Mr. IZAC. Do you view that as a threat against our Monroe Doctrine?

Mr. BRANT. I cannot help viewing it in that regard.

Mr. IZAC. And, do you not think, then, that we should take some steps at this time to nullify that activity in South American countries?

Mr. BRANT. That is just the point I have been trying to make here more strongly than anything else.

Mr. IZAC. Where would you stop in that policy; short of war, I presume?

Mr. BRANT. Yes; I would stop short of war. If war broke out under existing circumstances I would encourage the arming of the nations that are resisting Hitler to the extent that it was necessary to prevent the destruction of what I consider to be the American line of defense against this Fascist expansion.

Mr. EATON. I would like to ask the witness this question. This is a mere supposition: If we could have universal disarmament, and throw the world open to free competition in trade you would not consider it a warlike attitude toward us if Germany or anyone else should come over here and try to get the South American trade then, would you?

Mr. BRANT. If you established universal free trade?

Mr. EATON. I do not mean in the technical sense free trade, but an open door for everybody to go into competition with everybody else. Under those circumstances you would not consider that warlike, would you?

Mr. BRANT. I would have no objection to that.

Mr. EATON. That would be the millennium, I think.

Mr. TINKHAM. I would like to ask a question that I have not heard anyone touch upon in any public discussion or otherwise. Sup-



pose you had taken steps up to war, how can steps be taken, such as an embargo and other actions be taken without bringing on war? When you have marched down the road where war is, how can you possibly stop?

Mr. BRANT. You have no assurance whatever as to what will follow.

Mr. TINKHAM. Then it is very misleading, is it not, to say, "Take all steps up to war?"

Mr. BRANT. I would not use such a term.

Mr. TINKHAM. You came very close to it.

Mr. SHANLEY. Does that not rather imply recklessness of the consequences, because I notice in answering Mr. Izac the witness said he would use any weapons that were necessary to prevent a destruction of the American line of defense, and that might gradually, step by step so enrage the affected nations that they might consider it as an act of war, and would we not have to take the consequences?

Mr. BRANT. I think you would find the consequences of not taking steps to be far more serious.

Mr. SHANLEY. But the practice of not taking steps is the typical American policy. The other policy is venturing into the unknown.

Mr. BRANT. You are venturing into the unknown in any instance.

Mr. VORYS. There is no question of venturing into the unknown. We are there now.

Mr. BRANT. Yes; we are in it.

Mr. EATON. And getting deeper in the mire every minute.

Mr. BLOOM. Mr. Corbett.

Mr. CORBETT. Am I correct in believing that the witness recognizes or believes that there are certain definite dangers to the security of the United States from future activities of the so-called aggressor nations?

Mr. BRANT. I think there is if they become triumphant.

Mr. CORBETT. That, however, I believe runs counter to the opinion of all our military and naval authorities.

Mr. BRANT. If you are talking about a physical invasion of the United States I have no such fear.

Mr. CORBETT. I share that lack of fear.

Now, on the question of economic penetration, if this part of Germany's plans succeed in eastern and southeastern Europe, how can you imagine a country of their present resources building up economically not only those regions they have already taken, but those in which they contemplate economic penetration and, at the same time, going into Africa and South America and engaging in capitalistic enterprises? Certainly we can match them with our resources, and it seems we have created an awful bugaboo about this economic penetration.

Mr. BRANT. The economic penetration towards the east seems largely designed to make Germany self-sufficient as a war machine, and the economic penetration of Africa and South America is directed both toward expansion of the economic zone and in South America, toward the disposition of surplus Germany population.

Mr. CORBETT. I would differ just slightly on the statement that penetration eastward and southward in Europe is merely to bring about self-sufficiency, since back in Bismarck's time there has been an attitude there that developing those regions will help the economic prosperity of Germany very definitely, and also open the way for

trade with Asia or parts of it. That was part of the philosophy, I suppose, behind the Berlin-Bagdad scheme of developing that trade.

Mr. BRANT. I see no limit whatever to the proposed expansion of Germany in an economic or a military sense.

Mr. CORBETT. I am sorry; I did not hear you.

Mr. BRANT. I see no visible limit to the expansion of Germany either in an account or a military sense under their present plans.

Mr. EATON. Our fear of the totalitarian nations is well grounded. Now, if we look at the actual penetration of the effects of those dictatorships upon our lives at the present time you will see the force of it. France, a democratic country, is under a dictatorship. England, for the first time in its entire history is putting conscription to work, and at this moment, in this peace-loving nation, we are arming to the teeth, and if we go very much farther we have hanging in the background legislation such as will place this Nation under a dictatorship more complete than Germany, because that places everything in the hands of the Commander in Chief of the Army and Navy.

Mr. BRANT. You cannot escape it, and I think a German-Italian victory in Europe would practically fasten dictatorship on the United States.

Mr. EATON. Yes; and upon the world.

Mr. BLOOM. Mr. Brant, the committee feels highly honored in having you appear this morning, and we thank you very much for your enlightening statement.

Mr. BRANT. It has been a privilege to be here.

Mr. BLOOM. The committee will now adjourn until tomorrow morning at 10:30, to meet in executive session.

(Thereupon, at 12:10 p. m., the hearings were concluded, and the committee adjourned until tomorrow, Wednesday, May 3, 1939, at 10:30 a. m.)

## APPENDIX

[PUBLIC RESOLUTION—NO. 67—74TH CONGRESS]

[S. J. Res. 173]

JOINT RESOLUTION Providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That upon the outbreak or during the progress of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to any port of such belligerent states, or to any neutral port for transshipment to, or for the use of, a belligerent country.

The President, by proclamation, shall definitely enumerate the arms, ammunition, or implements of war, the export of which is prohibited by this Act.

The President may, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, or implements of war to other states as and when they may become involved in such war.

Whoever, in violation of any of the provisions of this section, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States, or any of its possessions, shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., title 22, secs. 238-245).

In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

When in the judgment of the President the conditions which have caused him to issue his proclamation have ceased to exist he shall revoke the same and the provisions hereof shall thereupon cease to apply.

Except with respect to prosecutions committed or forfeitures incurred prior to March 1, 1936, this section and all proclamations issued thereunder shall not be effective after February 29, 1936.

SEC. 2. That for the purposes of this Act—

(a) The term "Board" means the National Munitions Control Board which is hereby established to carry out the provisions of this Act. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board; the Secretary of the Treasury; the Secretary of War; the Secretary of the Navy; and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State;

(b) The term "United States" when used in a geographical sense includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia;

(c) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

Within ninety days after the effective date of this Act, or upon first engaging in business, every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, and implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register

with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, and implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$500, and upon receipt of such fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment of each renewal of a fee of \$500.

It shall be unlawful for any person to export, or attempt to export, from the United States any of the arms, ammunition, or implements of war referred to in this Act to any other country or to import, or attempt to import, to the United States from any other country any of the arms, ammunition, or implements of war referred to in this Act without first having obtained a license therefor.

All persons required to register under this section shall maintain, subject to the inspection of the Board, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Board shall prescribe.

Licenses shall be issued to persons who have registered as provided for, except in cases of export or import licenses where exportation of arms, ammunition, or implements of war would in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

The Board shall be called by the Chairman and shall hold at least one meeting a year.

No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions.

The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

This section shall take effect on the ninetieth day after the date of its enactment.

**§ SEC. 3.** Whenever the President shall issue the proclamation provided for in section 1 of this Act, thereafter it shall be unlawful for any American vessel to carry any arms, ammunition, or implements of war to any port of the belligerent countries named in such proclamation as being at war, or to any neutral port for transshipment to, or for the use of, a belligerent country.

Whoever, in violation of the provisions of this section, shall take, attempt to take, or shall authorize, hire, or solicit another to take any such vessel carrying such cargo out of port or from the jurisdiction of the United States shall be fined not more than \$10,000 or imprisoned not more than five years, or both; and, in addition, such vessel, her tackle, apparel, furniture, equipment, and the arms, ammunition, and implements of war on board shall be forfeited to the United States.

When the President finds the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation, and the provisions of this section shall thereupon cease to apply.

**SEC. 4.** Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, or its possession, men or fuel, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a foreign belligerent nation, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section

1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 1; U. S. C., title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, or any of its possessions, for a foreign port, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or the cargo, or any part thereof, to any warship, tender, or supply ship of a belligerent nation; and, if the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, or one of its possessions, has previously cleared from such port during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent nation, he may prohibit the departure of such vessel during the duration of the war.

Sec. 5. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States, or of its possessions, by the submarines of a foreign nation will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine to enter a port or the territorial waters of the United States or any of its possessions, or to depart herefrom, except under such conditions and subject to such limitations as the President may prescribe. When, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply.

Sec. 6. Whenever, during any war in which the United States is neutral, the President shall find that the maintenance of peace between the United States and foreign nations, or the protection of the lives of citizens of the United States, or the protection of the commercial interests of the United States and its citizens, or the security of the United States requires that the American citizens should refrain from traveling as passengers on the vessels of any belligerent nation, he shall so proclaim, and thereafter no citizen of the United States shall travel on any vessel of any belligerent nation except at his own risk, unless in accordance with such rules and regulations as the President shall prescribe: *Provided, however*, That the provisions of this section shall not apply to a citizen traveling on the vessel of a belligerent whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date: *And provided further*, That they shall not apply under ninety days after the date of the President's proclamation to a citizen returning from a foreign country to the United States or to any of its possessions. When, in the President's judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply.

Sec. 7. In every case of the violation of any of the provisions of this Act where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Sec. 8. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 9. The sum of \$25,000 is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of State in administering this Act.

Approved, August 31, 1935.

<sup>1</sup> So in original.

## [PUBLIC RESOLUTION No. 74--74TH CONGRESS]

[H. J. Res. 491]

JOINT RESOLUTION Extending and amending the joint resolution (Public Resolution Numbered 67, Seventy-fourth Congress), approved August 31, 1935

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 1 of the joint resolution (Public Resolution Numbered 67, Seventy-fourth Congress) approved August 31, 1935, be, and the same hereby is, amended by striking out in the first section, on the second line, after the word "assembled" the following words: "That upon the outbreak or during the progress of war between", and inserting therefor the words: "Whenever the President shall find that there exists a state of war between"; and by striking out the word "may" after the word "President" and before the word "from" in the twelfth line, and inserting in lieu thereof the word "shall"; and by substituting for the last paragraph of said section the following paragraph: "Except with respect to offenses committed, or forfeitures incurred prior to May 1, 1937, this section and all proclamations issued thereunder shall not be effective after May 1, 1937."

SEC. 2. There are hereby added to said joint resolution two new sections, to be known as sections 1a and 1b, reading as follows:

"SEC. 1a. Whenever the President shall have issued his proclamation as provided for in section 1 of this Act, it shall thereafter during the period of the war be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any belligerent country, or of any political subdivision thereof, or of any person acting for or on behalf of such government, issued after the date of such proclamation, or to make any loan or extend any credit to any such government or person: *Provided*, That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its nationals, he may, in his discretion, and to such extent and under such regulation as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions.

"The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of the President's proclamation.

"Whoever shall violate the provisions of this section or of any regulations issued hereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or agent thereof participating in the violation may be liable to the penalty herein prescribed.

"When the President shall have revoked his proclamation as provided for in section 1 of this Act, the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply.

"SEC. 1b. This Act shall not apply to an American republic or republics engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war."

SEC. 3. Section 9 of said joint resolution is amended to read as follows:

"There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this Act."

Approved, February 29, 1936.

## [PUBLIC RESOLUTION No. 1-75TH CONGRESS]

## [CHAPTER 1-1ST SESSION]

[S. J. Res. 3]

JOINT RESOLUTION To prohibit the exportation of arms, ammunition, and implements of war from the United States to Spain

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That during the existence of the state of civil strife now obtaining in Spain it shall, from and after the approval of this Resolution be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to Spain or to any other foreign country for transshipment to Spain or for use of either of the opposing forces in Spain. Arms, ammunition, or implements of war, the exportation of which is prohibited by this Resolution, are those enumerated in the President's Proclamation No. 2163 of April 10, 1936.

Licenses heretofore issued under existing law for the exportation of arms, ammunition, or implements of war to Spain shall, as to all future exportations thereunder, ipso facto be deemed to be cancelled.

Whoever in violation of any of the provisions of this Resolution shall export, or attempt to export, or cause to be exported either directly or indirectly, arms, ammunition, or implements of war from the United States or any of its possessions, shall be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

When in the judgment of the President the conditions described in this Resolution have ceased to exist, he shall proclaim such fact, and the provisions hereof shall thereupon cease to apply.

Approved, January 8, 1937, at 12:30 p. m.

(Spanish embargo lifted by Presidential proclamation, April 1, 1939.)

[PUBLIC RESOLUTION NO. 27 75TH CONGRESS]

[CHAPTER 146 1ST SESSION]

[S. J. RES. 51]

**JOINT RESOLUTION** To amend the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war", approved August 31, 1935, as amended.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war", approved August 31, 1935, as amended, is amended to read as follows:

"EXPORTS OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

"SECTION 1. (a) Whenever the President shall find that there exists a state of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to any belligerent state named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state.

"(b) The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, or implements of war to other states as and when they may become involved in such war.

"(c) Whenever the President shall find that a state of civil strife exists in a foreign state and that such civil strife is of a magnitude or is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to such foreign state would threaten or endanger the peace of the United States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to such foreign state, or to any neutral state for transshipment to, or for the use of, such foreign state.

"(d) The President shall, from time to time by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this section. The arms, ammunition, and implements of war so enumerated shall include those enumerated in the President's proclamation Numbered 2163, of April 10, 1936, but shall not include raw materials or any other articles of materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva June 17, 1925.

"(e) Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of

war from the United States shall be fined not more than \$10,000, or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 ed., title 22, secs. 238-245).

"(f) In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

"(g) Whenever, in the judgment of the President, the conditions which have caused him to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same, and the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed, or forfeitures incurred, prior to such revocation.

#### "EXPORT OF OTHER ARTICLES AND MATERIALS

"(Sec. 2. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act and he shall thereafter find that the placing of restrictions on the shipment of certain articles or materials in addition to arms, ammunition, and implements of war from the United States to belligerent states, or to a state wherein civil strife exists, is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, he shall so proclaim, and it shall thereafter be unlawful, except under such limitations and exceptions as the President may prescribe as to lakes, rivers, and inland waters bordering on the United States, and as to transportation on or over lands bordering on the United States, for any American vessel to carry such articles or materials to any belligerent state, or to any state wherein civil strife exists, named in such proclamation issued under the authority of section 1, of this Act, or to any neutral state for transshipment to, or for the use of, any such belligerent state or any such state wherein civil strife exists. The President shall by proclamation from time to time definitely enumerate the articles and materials which it shall be unlawful for American vessels to so transport.

"(b) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act and he shall thereafter find that the placing of restrictions on the export of articles or materials from the United States to belligerent states, or to a state wherein civil strife exists, is necessary to promote the security or preserve the peace of the United States or to protect the lives or commerce of citizens of the United States, he shall so proclaim, and it shall thereafter be unlawful, except under such limitations and exceptions as the President may prescribe as to lakes, rivers, and inland waters bordering on the United States, and as to transportation on or over land bordering on the United States, to export or transport, or attempt to export or transport, or cause to be exported or transported, from the United States to any belligerent state, or to any state wherein civil strife exists, named in such proclamation issued under the authority of section 1 of this Act, or to any neutral state for transshipment to, or for the use of, any such belligerent state or any such state wherein civil strife exists, any articles or materials whatever until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. The shipper of such articles or materials shall be required to file with the collector of the port from which they are to be exported a declaration under oath that there exists in citizens of the United States no right, title, or interest in such articles or materials, and to comply with such rules and regulations as shall be promulgated from time to time by the President. Any such declaration so filed shall be a conclusive stoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials. Insurance written by underwriters on any articles or materials the export of which is prohibited by this Act, or on articles or materials carried by an American vessel in violation of subsection (a) of this section, shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials and no loss incurred thereunder or by the owner of the vessel carrying the same shall be made a basis of any claim put forward by the Government of the United States.

"(c) The President shall from time to time by proclamation extend such restrictions as are imposed under the authority of this section to other states as and when they may be declared to become belligerent states under proclamations issued under the authority of section 1 of this Act.



"(d) The President may from time to time change, modify, or revoke in whole or in part any proclamations issued by him under the authority of this section.

"(e) Except with respect to offenses committed, or forfeitures incurred, prior to May 1, 1939, this section and all proclamations issued thereunder shall not be effective after May 1, 1939.

#### "FINANCIAL TRANSACTIONS

"Sec. 3. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any belligerent state or of any state wherein civil strife exists, named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, or of any faction or asserted government within any such state wherein civil strife exists, or of any person acting for or on behalf of any faction or asserted government within any such state wherein civil strife exists, issued after the date of such proclamation, or to make any loan or extend any credit to any such government, political subdivision, faction, asserted government, or person, or to solicit or receive any contribution for any such government, political subdivision, faction, asserted government, or person: *Provided*, That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its citizens, he may, in his discretion, and to such extent and under such regulations as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions. Nothing in this subsection shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, political subdivision, faction, or asserted government, but all such solicitations and collections of funds shall be subject to the approval of the President and shall be made under such rules and regulations as he shall prescribe.

"(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of the President's proclamation.

"(c) Whoever shall violate the provisions of this section or of any regulations issued hereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or agent thereof participating in the violation may be liable to the penalty herein prescribed.

"(d) Whenever the President shall have revoked any such proclamation issued under the authority of section 1 of this Act, the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

#### "EXCEPTIONS AMERICAN REPUBLICS

"Sec. 4. This Act shall not apply to an American republic or republics engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

#### "NATIONAL MUNITIONS CONTROL BOARD

"Sec. 5. (a) There is hereby established a National Munitions Control Board (hereinafter referred to as the 'Board') to carry out the provisions of this Act. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State. The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. The Board shall be convened by the chairman and shall hold at least one meeting a year.

"(b) Every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, or implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register

with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

"(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$500, unless he manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of less than \$50,000 during the twelve months immediately preceding his registration, in which case he shall pay a registration fee of \$100. Upon receipt of the required registration fee, the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment for each renewal of a fee of \$500 in the case of persons who manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of more than \$50,000 during the twelve months immediately preceding the renewal, or a fee of \$100 in the case of persons who manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of less than \$50,000 during the twelve months immediately preceding the renewal. The Secretary of the Treasury is hereby directed to refund, out of any moneys in the Treasury not otherwise appropriated, the sum of \$400 to every person who shall have paid a registration fee of \$500 pursuant to this Act, who manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of less than \$50,000 during the twelve months immediately preceding his registration.

"(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other state, any of the arms, ammunition, or implements of war referred to in this Act, or to import, or attempt to import, to the United States from any other state, any of the arms, ammunition, or implements of war referred to in this Act, without first having obtained a license therefor.

"(e) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State, or any person or persons designated by him, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Secretary of State shall prescribe.

"(f) Licenses shall be issued to persons who have registered as herein provided for, except in cases of export or import licenses where the export of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

"(g) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, all licenses theretofore issued under this Act shall ipso facto and immediately upon the issuance of such proclamation, cease to grant authority to export arms, ammunition, or implements of war from any place in the United States to any belligerent state, or to any state wherein civil strife exists, named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state or any such state wherein civil strife exists; and said licenses, insofar as the grant of authority to export to the state or states named in such proclamation is concerned, shall be null and void.

"(h) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

"(i) The provisions of the Act of August 29, 1916, relating to the sale of ordnance and stores to the Government of Cuba (39 Stat. 619, 643; U. S. C., 1934 ed., title 50, sec. 72), are hereby repealed as of December 31, 1937.

"(j) The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. The Board shall include in such reports a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

"(k) The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

**"AMERICAN VESSELS PROHIBITED FROM CARRYING ARMS TO BELLIGERENTS STATES**

"Sec. 6. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel to carry any arms, ammunition, or implements of war to any belligerent state, or to any state wherein civil strife exists, named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state or any such state wherein civil strife exists.

"(b) Whoever, in violation of the provisions of this section, shall take, or attempt to take, or shall authorize, hire, or solicit another to take, any American vessel carrying such cargo out of port or from the jurisdiction of the United States shall be fined not more than \$10,000, or imprisoned not more than five years, or both; and, in addition, such vessel, and her tackle, apparel, furniture, and equipment, and the arms, ammunition, and implements of war on board, shall be forfeited to the United States.

**"USE OF AMERICAN PORTS AS BASE OF SUPPLY**

"Sec. 7. (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a belligerent state, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., 1934 ed., title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any part of the cargo, to any warship, tender, or supply ship of a belligerent state.

"(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously cleared from a port of the United States during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent state, he may prohibit the departure of such vessel during the duration of the war.

**"SUBMARINES AND ARMED MERCHANT VESSELS**

"Sec. 8. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply.

**"TRAVEL ON VESSELS OF BELLIGERENT STATES**

"Sec. 9. Whenever the President shall have issued a proclamation under the authority of section 1 of this Act it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of the state or states named in such proclamation, except in accordance with such rules and regulations as the President shall prescribe: *Provided, however,* That the provisions of this section shall not apply to a citizen of the United States traveling on a vessel whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date: *And provided further,* That

they shall not apply under ninety days after the date of the President's proclamation to a citizen of the United States returning from a foreign state to the United States. Whenever, in the President's judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

#### "ARMING OF AMERICAN MERCHANT VESSELS PROHIBITED

"Sec. 10. Whenever the President shall have issued a proclamation under the authority of section 1, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel engaged in commerce with any belligerent state, or any state wherein civil strife exists, named in such proclamation, to be armed or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition therefor which the President may deem necessary and shall publicly designate for the preservation of discipline aboard such vessels.

#### "REGULATIONS

"Sec. 11. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

#### "GENERAL PENALTY PROVISION

"Sec. 12. In every case of the violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

#### "DEFINITIONS

"Sec. 13. For the purposes of this Act -

"(a) The term 'United States,' when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

"(b) The term 'person' includes a partnership, company, association, or corporation, as well as a natural person.

"(c) The term 'vessel' means every description of watercraft (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on, under, or over water.

"(d) The term 'American vessel' means any vessel (including aircraft) documented under the laws of the United States.

"(e) The term 'vehicle' means every description of carriage (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over land.

"(f) The term 'state' shall include nation, government, and country.

#### "SEPARABILITY OF PROVISIONS

"Sec. 14. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

#### "APPROPRIATIONS

"Sec. 15. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this Act."

Approved, May 1, 1937, 6.30 p. m., central standard time.

[H. Res. 100, 76th Cong., 1st sess.]

#### RESOLUTION

*Resolved*, That it is the sense of the House of Representatives that no transfer or loan or sale of arms or munitions in the possession of or to be acquired by the

United States Army or Navy shall be made to any foreign government or any foreign private interests for delivery to such a foreign government or foreign private interests.

[H. J. Res. 3, 76th Cong., 1st sess.]

JOINT RESOLUTION To prohibit the shipment of arms, ammunition, and implements of war from any place in the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the approval of this joint resolution it shall be unlawful to ship arms, ammunition, and implements of war from the United States or its possessions to any non-American country or to any country for transshipment to a non-American country.*

SEC. 2. Any violation of the provisions of this Act or of any rule or regulation issued pursuant thereto shall, upon conviction, be punished by a fine of not to exceed \$10,000 or imprisonment of not more than five years, or both.

[H. J. Res. 7, 76th Cong., 1st sess.]

JOINT RESOLUTION To implement the Kellogg-Briand Pact for World Peace

Whereas the increased armament of all nations, the new cruelties of war, the increased numbers of the unemployed, and poverty throughout the world make it evident that the Kellogg-Briand Peace Pact, which was inaugurated eleven years ago, needs to be protected from further violation by a supplementary treaty and made effective by completing the organization of the World Commonwealth born twenty-one years ago; and

Whereas nations prosecuting aggressive wars have cited in justification of their aggressive campaigns the notification given the United States by France on March 30, 1928, that the renunciation of war would not deprive the signatories of the right of legitimate defense, and Secretary Kellogg's declaration that the right of self-defense is "implicit in every treaty", and, though not incorporated in the pact itself, has been held to be a reservation in the pact, which has brought objection to the reservation as a weakness in the pact: Therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States enacts for herself alone, but in which she hopes to be joined by all signatory nations, the following provisions: That an aggressor nation is defined as one which, having agreed to settle all international differences only by pacific means, begins hostilities without having used each of the following required pacific means: Purchase, conference, conciliation, arbitration, and judicial procedure, calling the attention of each nation to the fact that the foregoing definition is substantially the same as that contained in the General Treaty of Locarno, 1925; and be it further*

*Resolved, That the United States, for itself alone, but with the hope that all signatory nations will unite with it, hereby restores the pact to its original meaning, relying upon the honor of each signatory nation to keep its sacred treaty promise to renounce aggressive war and to depend upon the power of a righteous public opinion to denounce the untrustworthiness and perfidy of any treaty-breaking aggressor nation and looking for protection in all its rights as a nation to the World Commonwealth the organization of which the conference of the signatory nations will effectuate;*

That the President of the United States be requested to call a conference of those nations which have signed the Pact of Paris (Kellogg-Briand Pact), to be held in Washington, District of Columbia, during the year 1930;

That each nation shall be asked to send as delegates two men and two women, none of whom shall have any connection with military affairs, with the making and selling of munitions, or with the industries which profit from war or other armed undertakings, who shall be authorized to vote not as representatives of the governments of their respective nations but as individuals representing the convictions and welfare of the citizens of their nations;

That the President in summoning the conference shall indicate that the world depression has, among other things, been caused by economic restrictions and unnecessarily large military expenditures of labor and materials, and by

national competition; and that these can be banished only by a friendly cooperation of all nations;

That the President in calling the conference shall direct attention to the fact that the Kellogg-Briand Conference will be superior to any conference which may be called to restore prosperity and promote business without lowering labor standards, because the nations called have already renounced war and cannot attend, except upon their willingness to ratify that promise and prove their sincerity by ceasing from aggressive war and heartily cooperating in an attempt to organize the world for prosperity and peace, on the basis of justice and good will;

That in issuing the call the President shall announce that by the ratification of the pact in the Senate, with but one dissenting vote, and its approval by President Coolidge in 1929, the multilateral treaty became the foreign policy of the United States which, as Chief Executive of the Nation, it is his moral and official duty to effectuate; and that the purpose of this Conference shall be to adopt a supplemental treaty the objects of which shall be:

(1) To enact a code of international laws which shall recognize the sovereignty of each nation, with the exception only that it has renounced war and promised to settle all international disputes by peaceful means; and shall recognize the right of every nation to be protected by international law from interference in its internal affairs by other nations;

(2) To provide for a uniform standard of value and cooperative measures for the maintenance of reasonable stability of exchange rates, and a healthy international flow of capital;

(3) To rectify international wrongs brought about by the treaty of Versailles or by the violation of the Paris Pact by the appointment of an International Equity Commission, consisting of nonimperialistic and nontotalitarian nations, to which dissatisfied nations can appeal for justice, with the right to have their petition reheard by the World Court of Appeals;

(4) To provide equal access to all colonies or non-self-governing areas to all nations for the purchase of raw materials and for the sale of their products;

(5) To provide a gradual disarmament to the minimum required for national police service and for economic demobilization, so that labor energy now going into armaments shall be diverted into housing, road building, agriculture, and other genuine peacetime activities;

That the President be requested to urge the four South American nations which have not signed the Kellogg-Briand Pact to do so, calling attention to the great desire of all peoples that the political machinery of all nations shall be so organized as to keep war out of the world as being the only certain method of protecting all nations from war; and

That the President shall be asked, by diplomatic correspondence through the Secretary of State, to prepare an agenda to be offered to the conference, to be made public at least a month before the conference, containing:

(A) A constitution proposing executive, legislative, and judicial departments for the United States of the world, under whatever name the conference may adopt, having due regard for a system of checks and balances which shall prevent undue usurpation of power by any one department; and

(B) A code of laws including a method for righting international injustices and wrongs and including methods to be used for the prevention of violations of the code.

[H. J. Res. 16, 76th Cong., 1st sess.]

**JOINT RESOLUTION**, To prohibit the exportation of arms, ammunition, or implements or materials of war to any foreign country when the president finds a state of war to exist between or among two or more foreign states or between or among two or more opposing forces in the same foreign state.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the President shall find that there exists a state of war between or among two or more foreign states, or between or among two or more opposing forces in the same foreign state, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or to attempt to export, or cause to be exported, arms, ammunition, or implements or materials of war from any place in the United States to any foreign country.

**SEC. 2.** Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements or materials of war from the United States shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle

containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 edition, title 22, secs. 238-245).

Sec. 3. In the case of the forfeiture of any arms, ammunition, or implements or materials of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements or materials of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

Sec. 4. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

Sec. 5. For the purposes of this Act—

(a) The term "United States" means the continental United States, the Territories and insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(b) The term "person" means a natural person, corporation, partnership, organization, or association.

(c) The term "vessel" means every description of watercraft (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on, under, or over water.

(d) The term "vehicle" means every description of carriage (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over land.

Sec. 6. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as from time to time may be necessary to carry out the provisions of this Act.

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[H. J. Res. 42, 76th Cong., 1st sess.]

JOINT RESOLUTION Providing for an embargo on scrap iron and pig iron under Public Resolution Numbered 27 of the Seventy-fifth Congress

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President shall issue a proclamation under Public Resolution Numbered 27 of the Seventy-fifth Congress approved May 1, 1937, declaring an embargo on the export of arms, ammunitions, or implements of war, he shall include scrap iron and pig iron in addition to those items enumerated in the President's proclamation, numbered 2163, of April 10, 1936.*

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[H. J. Res. 44, 76th Cong., 1st sess.]

JOINT RESOLUTION To repeal the Neutrality Act

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war", approved August 31, 1935, as amended, is hereby repealed.*

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[H. J. Res. 113, 76th Cong., 1st sess.]

JOINT RESOLUTION To prohibit the shipment of arms, ammunition, and implements of war from any place in the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the approval of this joint resolution it shall be unlawful to export or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States, except*

to nations on the American continents engaged in war against a non-American state or states.

SEC. 2. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

SEC. 3. Any arms, ammunition, or implements of war exported or attempted to be exported from the United States in violation of any of the provisions of this joint resolution and any vessel or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., title 22, secs. 238-245).

In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

SEC. 4. In every case of the violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided such violator or violators, upon conviction, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

SEC. 5. If any of the provisions of this joint resolution, or the application thereof to any person or circumstance, is held invalid, the remainder of the joint resolution, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 6. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this joint resolution.

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[H. J. Res. 226, 70th Cong., 1st sess.]

JOINT RESOLUTION, To amend the Neutrality Act

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 2 of the Neutrality Act, approved August 31, 1935, as amended, is amended by adding at the end thereof the following new subsection:

"(f) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act and he shall thereafter find that the placing of restrictions on the export of certain articles of materials of use in war, in addition to arms, ammunition, and implements of war, from the United States to belligerent states, or to a state wherein civil strife exists, is necessary to promote the security or preserve the peace of the United States, he shall so proclaim, it shall thereafter be unlawful, except under such limitations and exceptions as the President may prescribe, to export, or attempt to export, or cause to be exported, such articles or materials from any place in the United States to belligerent states or to any state wherein civil strife exists, named in such proclamation issued under the authority of section 1 of this Act, or to any other state for transshipment to, or for the use of any such belligerent state or any such state wherein civil strife exists."

SEC. 2. Such Act is further amended by adding after section 3 the following new section:

"SEC. 3A. Whenever the President shall find that one or more states signatory to a treaty to which the United States is a party is engaged in war with another state in violation of such treaty, he may, with the approval of a majority of each House of Congress, exempt such other state, in whole or in part, from the provisions of any proclamation issued by him under the authority of this Act, if such other state is not engaged in war in violation of such treaty. The President may, from time to time, change, modify, or revoke, in whole or in part, any exemption issued by him under the authority of this section."



[H. J. Res. 254, 76th Cong., 1st sess.]

JOINT RESOLUTION To keep the United States out of foreign wars, and to provide for the neutrality of the United States in the event of foreign wars

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

EXPORT OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

SECTION 1. (a) That upon the outbreak of or during the progress of any war or armed conflict, declared or undeclared, between, or among, two or more foreign states, the President shall proclaim such fact, or the Congress may so declare by joint resolution, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to any belligerent state named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state.

(b) The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, or implements of war to other states as and when they may become involved in such war.

(c) The President shall, from time to time, by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this section. The arms, ammunitions, and implements of war so enumerated shall include those enumerated in the President's Proclamation Numbered 2163, of April 10, 1936, but shall not include raw materials or any other articles or materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva June 17, 1925.

(d) Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 edition, title 22, secs. 238-245).

(e) In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

(f) Whenever, in the judgment of the President, the conditions which have caused him to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same, and the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed, or forfeitures incurred, prior to such revocation.

TRANSFER OF TITLE IN ARTICLES EXPORTED TO BELLIGERENTS

SEC. 2. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful to export or transport, or attempt to export or transport, or cause to be exported or transported, from the United States, directly or indirectly, to any state named in the proclamation, any articles or materials until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. The shipper of such articles or materials shall be required to file with the collector of the port from which they are to be exported a declaration under oath that there exists in citizens of the United States no right, title, or interest in such articles or materials, and to comply with such rules and regulations as shall be promulgated from time to time by the President. Any such declaration so filed shall be a conclusive estoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials.

(b) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a) the provisions of this section shall thereupon cease to apply in respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

## TRANSPORTATION OF CONTRABAND IN AMERICAN VESSELS

SEC. 3. Whenever the President shall have issued a proclamation under the authority of section 1 (a) of this Act, any American vessel which thereafter transports any cargo whatsoever to any belligerent state, named in such proclamation, or for the use of any such belligerent state shall be deemed to do so at its own risk.

## FINANCIAL TRANSACTIONS

SEC. 4. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) of this Act, it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any belligerent state named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, issued after the date of such proclamation, or to make any loan or extend any credit to any such government, political subdivision, faction, asserted government, or person, or to solicit or receive any contribution for any such government, political subdivision, faction, asserted government, or person: *Provided*, That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its citizens, he may, in his discretion, and to such extent and under such regulations as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions. Nothing in this subsection shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, political subdivision, faction, or asserted government, but all such solicitations and collections of funds shall be subject to the approval of the President, and shall be made under such rules and regulations as he shall prescribe.

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of the President's proclamation.

(c) Whoever shall violate the provisions of this section or of any regulations issued hereunder, shall upon conviction thereof be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or agent thereof participating in the violation may be liable to the penalty herein prescribed.

(d) Whenever the President shall have revoked any such proclamation issued under the authority of section 1 (a) of this Act, the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

## TRAVEL ON VESSELS OF FOREIGN STATES

SEC. 5. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of the state or states named in such proclamation: *Provided, however*, (1) That the provisions of this section shall not apply to a citizen of the United States traveling on a vessel whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date; (2) that they shall not apply under ninety days after the date of the President's proclamation to a citizen of the United States returning from a foreign state to the United States; and (3) that they shall not apply to officers, agents, and employees of the Government of the United States traveling on official business under specific authorization of the President.

(b) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a), the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation except with respect to offenses committed prior to such revocation.

## EXCEPTIONS—AMERICAN REPUBLICS

SEC. 6. This Act shall not apply to an American republic or republics engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

## PENALTIES

SEC. 7. In every case of the violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

## APPLICATION OF PROVISIONS OF THIS ACT

SEC. 8. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

## TITLE OF ACT

SEC. 9. This Act shall be known as "The Keep America Out of War Act."

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[H. R. 79, 76th Cong., 1st sess.]

A BILL To keep America out of war by repealing the so-called Neutrality Act of 1937 and by establishing and enforcing a policy of actual neutrality

Whereas the danger of the United States becoming involved in another world war would be greatly increased by invoking the provisions of the Neutrality Act of 1937; and

Whereas, by invoking the provisions of the neutrality law, the United States would be departing from a policy of actual neutrality; and

Whereas the provisions of the Neutrality Act have not been invoked as to the nations engaged in the conflict in the Far East, notwithstanding the fact that actual hostilities there have resulted in the deaths of thousands of armed forces and noncombatant men, women, and children; and

Whereas an added advantage would be given to an aggressor nation by invoking the neutrality law, thus stopping the shipment of supplies and munitions to an invaded nation needed for its own defense; and

Whereas so long as the Neutrality Act continues to be a law of the United States failure to invoke its provisions must necessarily be interpreted by an aggressor nation as a definitely unfriendly act, inasmuch as the continued shipment of supplies and munitions would be permitted to a nation with which it may be engaged in hostilities; and

Whereas the existence of the neutrality law has led aggressor nations to believe that the United States will not defend its rights and will not insist upon compliance with treaties and agreements to which it is a party; and

Whereas the conviction of aggressor nations that the people of the United States have adopted a "peace at any price" attitude has resulted in an open disregard for, and flagrant violations of treaties and agreements and of the rights of, the United States and its citizens; and

Whereas the existence of the neutrality law of the United States has thus tended to tie the hands of its State Department and the President in negotiations with other countries and has thus greatly lessened our Nation's influence and effectiveness in international conferences concerning matters designed to bring about permanent world peace; and

Whereas the most effective means of keeping the United States out of war is to repeal the Neutrality Act of 1937, to substitute actual neutrality, based upon a definite policy of nonaggression and international economic cooperation, supported by an adequate defense against any invasion of America: Therefore

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:* (1) the joint resolution to amend the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries, the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during", approved August 31, 1935, as amended (Public Resolution Numbered 27, Seventy-fifth Congress) be, and the same is hereby, repealed; (2) the people

of the United States hereby pledge to the peoples of the world that the United States will never invade a foreign nation and will never acquire new territory for itself by the use of armed forces; and (3) the people of the United States hereby firmly declare that the United States will never permit any invasion of the United States, or of any of its territorial possessions, or of any part of America, and will protect its rights and its citizens.

[H. R. 163, 76th Cong., 1st sess.]

A BILL To establish the neutrality of the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That upon the outbreak of war between two or more foreign nations the President shall issue a proclamation forbidding (1) exports of all kinds and (2) loans and credits to said belligerent countries or to the nationals of said belligerent countries. Said prohibition shall be made effective in a similar way by proclamation against nations that may enter the war subsequent to its outbreak and the nationals of said nations, and to factions engaged in a civil war.

Sec. 2. The penalty for violating such proclamation shall be a fine of \$10,000 or imprisonment for not more than five years, or both.

Sec. 3. No vessel of American registry shall be chartered or used to transport goods in violation of the President's proclamation forbidding said shipments, and the penalty for violation of this section shall be cancellation of the registration of said vessel.

Sec. 4. Upon the outbreak of war between two or more foreign nations the President shall issue a proclamation notifying American citizens that travel on the vessels of belligerent nations shall be at the traveler's own risk: *Provided*, That the notification shall not apply to a citizen on a voyage begun in advance of the date of the President's proclamation, if he has had no opportunity to discontinu his voyage after that date.

Sec. 5. Whenever during a war between two or more foreign nations it shall come to the notice of the Secretary of Labor that any alien is engaged in the United States or any possession thereof in propaganda activities other than the legitimate exercise of free speech and by such activities is seeking to win the favor of the United States for one or more of the belligerents, or otherwise to interfere with the position of neutrality of the United States, the Secretary shall immediately order the arrest of said alien and shall as soon as practicable deport him to the country from which he came.

Sec. 6. Recruiting in the United States in behalf of any belligerent foreign nation is forbidden. The penalty for violating this section shall be a fine of \$10,000 or imprisonment for not more than five years, or both.

Sec. 7. Whoever (1) disguises the identity of a consignor or (2) camouflages the nature or the destination of goods intended for ultimate delivery to a belligerent nation or to nationals of a belligerent nation shall be subject to a fine of \$10,000 or imprisonment for not more than five years, or both.

[H. R. 3419, 76th Cong., 1st sess.]

A BILL To prohibit the exportation of pig iron, scrap iron, and scrap steel to China and Japan

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be unlawful to export any pig iron, scrap iron, or scrap steel from the United States, or any Territory subject to the jurisdiction thereof, to any port or place in China or Japan, or to any other port or place for transshipment to China or Japan, to be used in the manufacture of implements of war or for military purposes.

Sec. 2. Any person, firm, or corporation violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$5,000 or by imprisonment of not more than one year. Each export shipment in violation of this Act shall be considered a separate offense.

Sec. 3. This Act shall be effective immediately upon its passage and approval by the President.

[H. R. 4232, 76th Cong., 1st sess.]

A BILL To limit the traffic in war munitions, to promote peace, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President shall find that any foreign nation has engaged in aerial bombing of civilian populations of any other nation or nations, he shall so proclaim and thereafter it shall be unlawful for any American corporation, partnership, or individual to manufacture for, transport to, and/or sell to such foreign nation engaged in aerial bombing any arms, ammunition, or implements of war, or any airplanes, parts of airplanes, or scrap iron.

SEC. 2. Any person, real or fictitious, violating any portion of this Act shall, upon conviction, be punished by a fine equal to the full market value of the goods so manufactured, transported, and/or sold, or by imprisonment of not to exceed ten years, or both.

[H. R. 5223, 76th Cong., 1st sess.]

A BILL—Peace Act of 1939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) within thirty days after the outbreak of a declared or an undeclared armed conflict between foreign states the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the armed conflict.

(b) Whenever the conditions which have caused the President to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same by proclamation.

SEC. 2. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful for any American vessel to carry any passengers or any articles or materials directly or indirectly to any state named in the proclamation.

(b) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful to export or transport, or attempt to export or transport, or cause to be exported or transported, from the United States directly or indirectly to any state named in the proclamation, any articles or materials until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. The shipper of such articles or materials shall be required to file with the collector of the port from which they are to be exported a declaration under oath that there exists in citizens of the United States no right, title, or interest in such articles or materials, and to comply with such rules and regulations as shall be promulgated from time to time by the President. Any such declaration so filed shall be a conclusive estoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials.

(c) Insurance written by underwriters on articles or materials included in shipments which are subject to restrictions under the provisions of this Act, and on vessels carrying such shipments, shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials, or vessels, and no loss incurred thereunder or by the owners of such vessels, shall be made the basis of any claim put forward by the Government of the United States.

(d) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a) the provisions of this section shall thereupon cease to apply in respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

SEC. 3. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall issue a proclamation, whereupon it shall be unlawful, except under such limitations and exceptions as the President may prescribe, for citizens of the United States, or vessels flying the flag of the United States to proceed through any areas defined from time to time by the President to be areas of combat operations and so specified in his proclamation.

(b) The President may from time to time modify or extend his proclamation as changes in the situation may in his judgment warrant, and when the conditions which have caused him to issue his proclamation have ceased to exist he shall revoke the same and the provisions of this section shall thereupon cease to apply.

SEC. 4. The provisions of sections 2 and 3 shall not apply to travel and trade on or over lands, lakes, rivers, and inland waters bordering on the United States. Furthermore, these provisions shall not prohibit the transportation by vessels under charter or other direction and control of the Red Cross, proceeding under safe conduct granted by states engaged in armed conflict, of officers and Red Cross personnel, medical personnel, and medical supplies, food, and clothing, for the relief of human suffering.

SEC. 5. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of the state or states named in such proclamation: *Provided, however,* (1) That the provisions of this section shall not apply to a citizen of the United States traveling on a vessel whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date; (2) that they shall not apply under ninety days after the date of the President's proclamation to a citizen of the United States returning from a foreign state to the United States; and (3) that they shall not apply to officers, agents, and employees of the Government of the United States traveling on official business under specific authorization by the President.

Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a), the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

SEC. 6. Whenever the President shall have issued a proclamation under the authority of section 1, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel engaged in commerce with any foreign state to be armed or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition thereof which the President may deem necessary and shall publicly designate for the preservation of discipline aboard such vessels.

SEC. 7. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any state named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, issued after the date of such proclamation, or to make any loan or extend any credit to any such government, political subdivision, or person: *Provided,* That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its citizens he may, in his discretion, and to such extent and under such regulations as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions.

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of the President's proclamation.

(c) Whoever shall violate the provisions of this section or of any regulations issued hereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than 5 years, or both. Should the violation be by a corporation, organization, or association, each officer or agent thereof participating in the violation may be liable to the penalty herein prescribed.

(d) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a), the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

SEC. 8. Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state named in the proclamation.

Nothing in this section shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, but all such solicitations and collections of funds shall be subject to the approval of the President and shall be made under such rules and regulations as he shall prescribe.

(b) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a) the provisions of this section and of any regulations

issued by the President hereunder shall thereupon cease to apply with respect to the states named in such proclamation, except with respect to offenses committed prior to such revocation.

SEC. 9. This Act shall not apply to an American republic or republics engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

SEC. 10. (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a belligerent state, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., 1934 edition, title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any part of the cargo, to any warship, tender, or supply ship of a belligerent state.

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously cleared from a port of the United States during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent state, he may prohibit the departure of such vessel during the duration of the war.

SEC. 11. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply.

SEC. 12. (a) There is hereby established a National Munitions Control Board (hereinafter referred to as the "Board"). The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board; the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State. The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. The Board shall be convened by the chairman and shall hold at least one meeting a year.

(b) Every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, or implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$100. Upon receipt of the required fee, the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment of each renewal of a fee of \$100.

(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other state, any of the arms, ammunition, or implements of war referred to in this Act, or to import, or attempt to import, to the United States from any other state, any of the arms, ammunition, or implements of war referred to in this Act, without first having obtained a license therefor.

(e) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State, or any person or persons designated by him, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Secretary of State shall prescribe.

(f) Licenses shall be issued to persons who have registered as herein provided for, except in cases of export or import licenses where the export of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

(g) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

(h) The provisions of the Act of August 29, 1916, relating to the sale of ordnance and stores to the Government of Cuba (39 Stat. 619, 643; U. S. C., 1934 edition, title 50, sec. 72), are hereby repealed as of December 31, 1937.

(i) The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. The Board shall include in such reports a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

(j) The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunitions, and implements of war for the purposes of this section.

SEC. 13. The President may from time to time promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

SEC. 14. In every case of the violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SEC. 15. For the purposes of this Act—

(a) The term "United States," when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(b) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term "vessel" means every description of watercraft (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on, under, or over water.

(d) The term "American vessel" means any vessel (including aircraft) documented under the laws of the United States.

(e) The term "vehicle" means every description of carriage (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over land.

(f) The term "state" shall include nation, government, and country.

SEC. 16. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 17. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this Act.

SEC. 18. The Act of August 31, 1935 (Public Resolution Numbered 67, Seventy-fourth Congress), as amended by the Act of February 29, 1936 (Public Resolution Numbered 74, Seventy-fourth Congress), and the Act of May 1, 1937 (Public Resolution Numbered 27, Seventy-fifth Congress), and the Act of January 8, 1937 (Public Resolution Numbered 1, Seventy-fifth Congress), are hereby repealed.



[H. R. 5432, 76th Cong. 1st sess.]

A BILL To prohibit the export of arms, ammunition, and implements and materials of war to Japan, to prohibit the transportation of arms, ammunition, implements and materials of war by vessels of the United States for the use of Japan; to restrict travel by American citizens on Japanese ships; and otherwise to prevent private persons and corporations subject to the jurisdiction of the United States from rendering aid or support to the Japanese invasion of China

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the date of approval of this Act it shall be unlawful to export or attempt to export, or cause to be exported, arms, ammunition, implements of war, or materials of war, from any place in the United States to Japan, or to any other state for transshipment to or for the use of Japan.

SEC. 2. The arms, ammunition, and implements of war, the export of which is prohibited under the foregoing section, shall be those heretofore and hereafter enumerated pursuant to section 1 (d) of the joint resolution of May 1, 1937 (50 Stat. 122).

SEC. 3. The materials of war, the export of which is prohibited under section 1 of this Act, shall include scrap iron, scrap tin, and all other metals, petroleum and petroleum products, machinery capable of use in the production of armaments, and engines, engine parts, and other manufactures capable of use in airplanes, tanks, artillery, or other implements of war. Such materials of war shall also include such other articles, commodities, and materials as the President may from time to time enumerate by proclamation upon a finding that such articles, commodities, or materials are being used, or are capable of use, for military purposes.

SEC. 4. From and after the date of approval of this Act it shall be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the Government of Japan, or of any political subdivision of that Government, or of any person acting for or on behalf of that Government, issued after the date of approval of this Act, or to make any loan or extend any credit to any such Government, political subdivision, or person, or to solicit or receive any contribution for any such Government, political subdivision, or person. Nothing in this section shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food or clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for the use by any person or organization which is not acting for or on behalf of the Government of Japan; but all such solicitations and collections of funds shall be subject to the approval of the President, and shall be made under such rules and regulations as he shall prescribe.

SEC. 5. From and after the date of approval of this Act it shall be unlawful for any American vessel to carry any arms, ammunition, or implements of war, or materials of war, to Japan or to any neutral state, for transshipment to, or for the use of the Government of Japan.

SEC. 6. (a) Whenever the President shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of Japan, it shall be the duty of the President to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States with sufficient sureties in such amounts as he shall deem proper, conditioned that the vessel will not deliver the men or any part of the cargo to any warship, tender, or supply ship of Japan.

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has at any time after the date of the approval of this Act, previously cleared from a port of the United States, delivered its cargo or any part thereof to any warship, tender, or supply ship of Japan, he may prohibit the departure of such vessel.

SEC. 7. From and after the date of approval of this Act it shall be unlawful for any warship, submarine, or armed merchant vessel of Japan to enter a port or territorial waters of the United States, or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe.

SEC. 8. From and after the date of approval of this Act it shall be unlawful for any citizen of the United States to travel on any vessel of Japan except in accordance with such rules and regulations as the President may prescribe: *Provided, however,* That the provisions of this section shall not apply to citizens of the United States traveling on a vessel whose voyage was begun in advance of the date of approval of this Act, and who had no opportunity to discontinue his voyage after that date: *And provided further,* That the provisions of this section shall not apply under ninety days after the date of approval of this Act to a citizen of the United States returning from Japan to the United States.

Sec. 9. Any proclamation made under section 3 of this Act shall be reported to the Congress, with a statement by the President of the facts upon which such proclamation has been based, and such proclamation may thereafter be annulled by a concurrent resolution adopted by both Houses of Congress.

Sec. 10. The prohibitions of this Act shall cease to apply, except with respect to offenses committed prior to such date, when the President shall find that the armed forces of Japan have been withdrawn from Chinese territory.

Sec. 11. Whoever violates any of the provisions of this Act, or any proclamation, rule, or regulation issued pursuant thereto, shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than five years, or both.

Sec. 12. If any of the provisions of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 13. All laws and parts of laws inconsistent with this Act are hereby repealed.

Sec. 14. This Act may be cited as the Japanese Embargo Act of 1939.

[H. R. 5575, 76th Cong., 1st sess.]

A BILL: Peace Act of 1939

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### PROCLAMATION OF ARMED CONFLICT BETWEEN FOREIGN STATES

SECTION 1. (a) That whenever any foreign state or states declare a state of war to exist between or among two or more foreign states, the President shall issue a proclamation naming the states involved. Whenever the Congress shall by concurrent resolution find, or whenever the President shall find that there exists an undeclared state of war between or among two or more foreign states the President shall forthwith proclaim such fact, naming the states involved. The President shall from time to time, by proclamation, name other states as and when they may become involved in such war.

(b) Whenever the conditions, which have caused the President to issue any proclamation under the authority of this section, have ceased to exist, he shall revoke the same by proclamation.

#### COMMERCE WITH STATES ENGAGED IN ARMED CONFLICT

Sec. 2. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful for any American vessel to carry any passengers or any articles or materials, directly or indirectly, to any state named in the proclamation.

(b) Whenever the President shall have issued a proclamation or proclamations under the authority of section 1 (a) it shall thereafter be unlawful to export or transport, or attempt to export or transport, or cause to be exported or transported, from the United States, directly or indirectly, to any state named in the proclamation or proclamations, any articles or materials until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. The shipper of such articles or materials shall be required to file with the collector of the port from which they are to be exported a declaration under oath that there exists in citizens of the United States no right, title, or interest in such articles or materials, and to comply with such rules and regulations as shall be promulgated from time to time by the President. Any such declaration so filed shall be a conclusive estoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials.

(c) Insurance written by underwriters on articles or materials included in shipments which are subject to restrictions under the provisions of this Act, and on vessels carrying such shipments shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials, or vessels, and no loss incurred thereunder or by the owners of such vessels, shall be made the basis of any claim put forward by the Government of the United States.

(d) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a) the provisions of this section shall thereupon cease to apply in respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

## AREAS OF COMBAT OPERATIONS

Sec. 3. (a) Whenever the President shall have issued a proclamation or proclamations under the authority of section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall issue a proclamation, whereupon it shall be unlawful, except under such limitations and exceptions as the President may prescribe, for citizens of the United States or vessels flying the flag of the United States to proceed through any areas defined from time to time by the President to be areas of combat operations and so specified in his proclamation.

(b) The President may from time to time modify or extend his proclamation or proclamations and when the conditions which have caused him to issue his proclamation or proclamations have ceased to exist he shall revoke the same and the provisions of this section shall thereupon cease to apply.

## RED CROSS AND OTHER EXCEPTIONS

Sec. 4. The provisions of sections 2 and 3 shall not apply to travel and trade on or over lands, lakes, rivers, and inland waters bordering on the United States where no armed conflict exists as herein defined. Furthermore, these provisions shall not prohibit the transportation by vessels under charter or other direction and control of the Red Cross, proceeding under safe conduct granted by states engaged in armed conflict, of officers and Red Cross personnel, medical personnel and medical supplies, food, and clothing, for the relief of human suffering.

## TRAVEL ON VESSELS OF FOREIGN STATES

Sec. 5. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of the state or states named in such proclamation: *Provided, however*, (1) That the provisions of this section shall not apply to a citizen of the United States traveling on a vessel whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date; (2) that they shall not apply under ninety days after the date of the President's proclamation to a citizen of the United States returning from a foreign state to the United States; and (3) that they shall not apply to officers, agents, and employees of the Government of the United States traveling on official business under specific authorization by the President.

(b) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a), the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

## ARMING OF AMERICAN MERCHANT VESSELS PROHIBITED

Sec. 6. Whenever the President shall have issued a proclamation under the authority of section 1, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel, engaged in commerce with any foreign state, or in any combat area, to be armed or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition therefor, which the President may deem necessary and shall publicly designate for the preservation of discipline aboard such vessels.

## FINANCIAL TRANSACTIONS

Sec. 7. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any state named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, issued after the date of such proclamation, or to make any loan or extend any credit to any such government, political subdivision, or person: *Provided*, That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its citizens, he may, in his discretion, and to such extent and under such regulation as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions.

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of the President's proclamation.

(c) Whoever shall violate the provisions of this section or of any regulations issued hereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or agent thereof participating in the violation may be liable to the penalty herein proscribed.

(d) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a), the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed prior to such revocation.

#### SOLICITATION AND COLLECTION OF FUNDS

Sec. 8. Whenever the President shall have issued a proclamation or proclamations under the authority of section 1 (a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state or agent, instrumentality, or supporter named in the proclamation.

Nothing in this section shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for use by any person or organization which is not acting for or on behalf of in aid of any such government, but all such solicitations and collections of funds shall be subject to the approval of the President and shall be made under such rules and regulations as he shall prescribe.

(b) Whenever the President shall have revoked any proclamation issued under the authority of section 1 (a), the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply with respect to the states named in such proclamation, except with respect to offenses committed prior to such revocation.

#### AMERICAN REPUBLICS

Sec. 9. This Act shall not apply to an American republic or republics engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

#### USE OF AMERICAN PORTS AS BASE OF SUPPLIES

Sec. 10. (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a belligerent state, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., 1934 edition, title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any part of the cargo, to any warship, tender, or supply ship of a belligerent state.

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously cleared from a port of the United States during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent state, he may prohibit the departure of such vessel during the duration of the war.

#### SUBMARINES AND ARMED MERCHANT VESSELS

Sec. 11. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States

and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply.

#### NATIONAL MUNITIONS CONTROL BOARD

Sec. 12. (a) There is hereby established a National Munitions Control Board (hereinafter referred to as the "Board"). The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State. The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. The Board shall be convened by the chairman and shall hold at least one meeting a year.

(b) Every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, or implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$100. Upon receipt of the required registration fee, the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment for each renewal of a fee of \$100.

(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other state, any of the arms, ammunition, or implements of war referred to in this Act, or to import, or attempt to import, to the United States from any other state, any of the arms, ammunition, or implements of war referred to in this Act, without first having obtained a license therefor.

(e) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State, or any person or persons designated by him, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Secretary of State shall prescribe.

(f) Licenses shall be issued to person who have registered as herein provided for, except in cases of export or import licenses where the export of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

(g) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

(h) The provisions of the Act of August 29, 1916, relating to the sale of ordnance and stores to the Government of Cuba (39 Stat. 619, 643; U. S. C., 1934 edition, title 50, sec. 72), are hereby repealed as of December 31, 1937.

(i) The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. The Board shall include in such reports a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

(j) The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

## REGULATIONS

Sec. 13. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

## GENERAL PENALTY PROVISION

Sec. 14. In every case of the violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

## DEFINITIONS

SEC. 15. For the purposes of this Act—

(a) The term "United States", when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(b) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term "vessel" means every description of watercraft (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on, under, or over water.

(d) The term "American vessel" means any vessel (including aircraft) documented under the laws of the United States.

(e) The term "vehicle" means every description of carriage (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over land.

(f) The term "state" shall include nation, government, and country.

## SEPARABILITY OF PROVISIONS

Sec. 16. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

## APPROPRIATIONS

Sec. 17. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this Act.

## REPEAL OF ACTS OF 1935, 1936, 1937

Sec. 18. The Act of August 31, 1935 (Public Resolution Numbered 67, Seventy-fourth Congress), as amended by the Act of February 29, 1936 (Public Resolution Numbered 74, Seventy-fourth Congress), and the Act of May 1, 1937 (Public Resolution Numbered 27, Seventy-fifth Congress), and the Act of January 8, 1937 (Public Resolution Numbered 1, Seventy-fifth Congress), are hereby repealed.

*Exports of selected commodities to Japan, China, Germany, Italy, United Kingdom, and France 1936-38*

## QUANTITY

Commodities and years	All countries	Japan	China	Germany	Italy	United Kingdom	France
Cotton, raw except linters (1,000 bales):							
1938	4,316	1,028	43	319	377	808	450
1937	5,728	890	9	800	526	1,514	726
1936	5,400	1,356	17	691	340	1,231	719
Scrap iron and steel (1,000 tons):							
1938	3,175	1,382	10	229	432	387	4
1937	4,102	1,912	29	88	381	847	3
1936	1,936	1,058	22	7	285	365	1
Motortrucks and buses (new), number:							
1938	115,595	5,802	4,491	1,025	35	1,601	3,419
1937	165,713	10,462	2,342	97	95	3,417	7,242
1936	105,800	7,769	1,008	27	378	2,327	641
Crude petroleum (1,000 barrels):							
1938	77,272	21,290	166	1,287	6,751	59	16,743
1937	67,127	15,995		1,430	4,544	753	10,006
1936	50,313	10,381	8	1,176	1,862	160	7,463
Gasoline (1,000 barrels):							
1938	40,269	1,059	20	2,233	419	8,539	2,906
1937	30,524	1,093	356	990	437	4,639	1,797
1936	22,727	1,013	430	642	426	3,593	816
Lubricating oil (1,000 barrels):							
1938	9,312	289	67	1,235	306	2,459	529
1937	10,830	444	308	1,232	374	2,519	441
1936	8,003	308	234	1,271	201	2,058	479
Copper, refined (1,000 pounds):							
1938	741,091	217,880	952	148,006	43,747	61,231	64,221
1937	590,127	145,689	8,938	75,070	41,624	105,682	78,394
1936	440,781	79,852	5,096	65,279	47,701	61,096	81,744
Lead, pigs, bars, etc. (1,000 pounds):							
1938	91,733	60,400		2,185		156	
1937	40,181	14,640		1,136		4,451	
1936	36,627	17,257				246	

## PERCENT PURCHASED BY EACH COUNTRY

Cotton, raw, except linters:							
1938	100.0	23.8	0.1	7.4	8.7	18.7	10.4
1937	100.0	15.5	(1)	14.0	9.2	26.4	12.7
1936	100.0	25.1	.3	12.8	6.3	22.8	13.3
Scrap iron and steel:							
1938	100.0	43.5	.3	7.2	13.6	12.2	.1
1937	100.0	40.6	.7	2.1	9.3	20.6	(1)
1936	100.0	54.0	1.1	.4	14.7	18.9	(1)
Motortrucks and buses (new):							
1938	100.0	5.0	3.9	.9	(1)	1.4	3.0
1937	100.0	6.3	1.4	(1)	(1)	2.1	4.4
1936	100.0	7.3	1.0	(1)	.4	2.2	.6
Crude petroleum:							
1938	100.0	27.6	.2	1.7	8.7	.1	21.7
1937	100.0	23.8		2.1	0.8	1.1	15.0
1936	100.0	20.6	(1)	2.3	3.7	.3	14.8
Gasoline:							
1938	100.0	2.6	(1)	5.6	1.0	21.2	7.2
1937	100.0	3.6	1.2	3.2	1.4	15.2	5.9
1936	100.0	4.5	1.9	2.8	1.9	15.8	3.6
Lubricating oil:							
1938	100.0	3.1	.7	13.3	3.3	26.4	5.7
1937	100.0	4.1	2.8	11.4	3.5	23.2	4.1
1936	100.0	3.6	2.7	14.8	3.0	23.9	5.6
Copper, refined:							
1938	100.0	29.4	.1	20.1	5.9	8.3	8.7
1937	100.0	24.7	1.5	12.7	7.1	17.9	13.3
1936	100.0	18.1	1.2	14.8	10.8	18.9	18.5
Lead—pigs, bars, etc.:							
1938	100.0	65.8		2.4		2	
1937	100.0	36.4		2.8		11.1	
1936	100.0	47.1				.7	

<sup>1</sup> Less than one-tenth of 1 percent.

## Exports of selected commodities to Japan, China, Germany, Italy, United Kingdom, and France 1936-38--Continued

VALUE IN THOUSANDS OF DOLLARS

Commodities and years	All countries	Japan	China	Germany	Italy	United Kingdom	France
<b>All commodities:</b>							
1938.....	3,004,006	239,620	34,740	107,491	68,260	821,124	133,835
1937.....	3,349,167	288,668	49,703	120,343	70,830	836,400	164,528
1936.....	2,455,078	204,318	40,819	101,956	58,989	440,122	120,157
<b>Cotton, raw, except linters:</b>							
1938.....	221,315	52,850	2,000	10,875	10,260	41,150	23,802
1937.....	360,023	61,724	584	50,243	33,204	90,346	44,026
1936.....	353,822	88,338	1,051	45,306	22,707	78,603	47,540
<b>Scrap iron and steel:</b>							
1938.....	45,837	22,061	193	2,945	6,036	6,113	68
1937.....	79,387	39,386	712	1,610	6,640	15,842	89
1936.....	24,084	14,177	357	122	3,564	3,792	12
<b>Airplanes and parts:</b>							
1938.....	68,209	11,062	6,302	786	187	3,010	879
1937.....	39,404	2,484	3,062	1,027	470	1,729	201
1936.....	23,143	989	7,187	411	631	461	521
<b>Metal-working machinery:</b>							
1938.....	101,657	23,538	102	1,126	1,138	15,035	5,756
1937.....	64,304	11,064	879	238	1,000	10,870	4,047
1936.....	46,117	3,331	139	213	1,488	11,703	2,302
<b>Motortrucks and busses (new):</b>							
1938.....	72,117	2,091	2,613	824	27	947	3,504
1937.....	100,174	3,875	1,327	70	64	1,812	8,583
1936.....	54,772	2,595	762	19	311	1,210	292
<b>Crude petroleum:</b>							
1938.....	111,739	20,956	249	1,817	0,558	109	26,439
1937.....	96,432	22,103	.....	2,004	0,809	1,066	16,514
1936.....	66,119	14,194	12	1,476	2,246	181	10,293
<b>Gasoline:</b>							
1938.....	103,644	7,713	47	7,049	1,705	18,764	6,535
1937.....	81,946	3,683	1,040	3,251	1,480	11,539	4,726
1936.....	57,140	3,367	1,303	1,797	1,179	7,880	1,777
<b>Lubricating oil:</b>							
1938.....	68,855	2,614	603	9,010	1,774	13,288	4,815
1937.....	86,509	5,518	1,329	10,035	3,111	15,320	4,847
1936.....	65,336	2,765	1,435	10,390	1,048	11,032	4,671
<b>Copper, refined:</b>							
1938.....	74,003	21,813	41	14,872	4,205	6,284	6,442
1937.....	76,084	17,997	1,283	9,972	5,483	14,203	10,271
1936.....	40,702	7,293	458	6,041	4,484	5,665	7,512
<b>Lead: pigs, bars, etc.:</b>							
1938.....	3,355	2,100	.....	73	.....	12	.....
1937.....	1,838	712	.....	62	.....	198	.....
1936.....	1,390	603	.....	.....	.....	10	.....

## PERCENT PURCHASED BY EACH COUNTRY

Commodities and years	All countries	Japan	China	Germany	Italy	United Kingdom	France
<b>All commodities:</b>							
1938.....	100.0	7.7	1.1	3.5	1.9	16.8	4.3
1937.....	100.0	8.6	1.5	3.8	2.3	16.0	4.0
1936.....	100.0	8.3	1.9	4.1	2.4	17.9	5.3
<b>Airplanes and parts:</b>							
1938.....	100.0	16.2	0.4	1.2	.3	8.7	1.3
1937.....	100.0	6.3	10.1	2.6	1.2	4.4	.5
1936.....	100.0	4.3	31.1	1.6	2.7	2.0	2.3
<b>Metal-working machinery:</b>							
1938.....	100.0	23.2	.2	1.1	1.1	15.4	5.7
1937.....	100.0	18.5	.6	.4	2.6	30.8	7.7
1936.....	100.0	7.2	.3	.8	3.2	28.6	6.0



## Exports of selected commodities to Japan, China, Germany, Italy, United Kingdom, and France 1936-38--Continued

## PERCENT OF EACH COMMODITY TO TOTAL EXPORTS

Commodities and years	All countries	Japan	China	Germany	Italy	United Kingdom	France
All commodities:							
1938.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1937.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1936.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Cotton, raw, except linters:							
1938.....	7.2	22.1	5.9	15.7	33.1	7.9	17.8
1937.....	10.7	21.4	1.2	30.8	43.3	16.8	20.8
1936.....	14.4	43.2	2.2	44.4	38.0	17.9	30.7
Scrap iron and steel:							
1938.....	1.6	0.2	.6	2.7	10.4	1.2	(1)
1937.....	2.4	13.6	1.6	1.3	8.6	3.0	(1)
1936.....	1.0	6.9	.8	.1	6.0	.9	(1)
Airplanes and parts:							
1938.....	2.2	4.6	18.4	.7	.8	.8	.7
1937.....	1.2	.9	8.0	.8	.6	.3	.1
1936.....	.9	.6	15.3	.4	1.1	.1	.4
Metal-working machinery:							
1938.....	3.3	9.8	.6	1.0	2.0	3.0	4.3
1937.....	1.9	4.1	.8	.2	2.2	3.7	3.0
1936.....	1.9	1.6	.8	.2	2.6	2.7	1.8
Motor trucks and busses (new):							
1938.....	2.3	.9	7.5	.8	(1)	.2	2.6
1937.....	3.0	1.3	2.7	.1	.1	.3	5.2
1936.....	2.2	1.3	1.6	(1)	.6	.3	.2
Crude petroleum:							
1938.....	3.6	12.5	.7	1.7	10.4	(1)	19.0
1937.....	2.9	7.7	(1)	1.6	8.9	.2	9.4
1936.....	2.7	6.9	(1)	1.4	3.8	(1)	8.0
Gasoline:							
1938.....	3.3	3.2	.1	6.6	2.9	3.6	4.9
1937.....	2.6	1.3	2.1	2.6	1.9	2.1	2.9
1936.....	2.3	1.2	2.6	1.8	2.0	1.8	1.4
Lubricating oil:							
1938.....	2.2	1.1	1.4	8.4	3.0	2.6	3.6
1937.....	2.6	1.9	3.7	7.9	4.0	2.9	2.9
1936.....	2.7	1.4	3.1	10.2	3.3	2.7	3.6
Copper, refined:							
1938.....	2.4	9.1	.3	13.8	7.4	1.2	4.8
1937.....	2.3	6.2	2.6	7.9	7.1	2.7	6.2
1936.....	1.7	3.6	1.0	6.9	7.6	1.3	6.8
Lead--pigs, bars, etc.:							
1938.....	.1	.9	(1)	(1)	(1)	(1)	(1)
1937.....	(1)	.2	(1)	(1)	(1)	(1)	(1)
1936.....	(1)	.3	(1)	(1)	(1)	(1)	(1)

1 Less than one-tenth of 1 percent.